

ADOPTED 07-07-2017

Recommendations to the Gearhart City Council from the Dunes Vegetation Committee

Introductory Notes:

A. The Beaches and Active Dunes Overlay District (the "B.A.D. Overlay District") is defined in Section 3.12 of the City of Gearhart's Zoning Ordinance (the "Ordinance"). Sub-Section 3.1240.2.D regulates the pruning and trimming of vegetation within the B.A.D. Overlay District, and Sub-Section 3.1240.2.E regulates the use of motor vehicles within the B.A.D. Overlay District.

B. In April 2017, the City Council of the City of Gearhart (the "City") created the Dunes Vegetation Committee (the "Committee"), comprised of both permanent and part-time Gearhart residents as well as other interested parties. The City requested that the Committee study the issues concerning vegetation and vehicle access within the B.A.D. Overlay District and then make recommendations to the City Council regarding potential changes to the Ordinance which would be in the public interest.

C. The Committee has now completed its work and hereby submits four recommendations to the City Council. These recommendations reflect compromises which have been accepted and endorsed by a majority of the Committee's members. However, the Committee wishes to acknowledge that some members of the Committee do not agree with some portions of these recommendations.

Recommendation No. 1: The existing provisions of Ordinance Section 3.1240.2.E (concerning Vehicular Access to Dune Areas) should be repealed, and the following provisions should be adopted in their place:

E. Motorized Vehicles

*It is the City's policy to limit the use of motorized vehicles within the B.A.D. Overlay District to only such uses as are reasonably necessary, as further specified below. **Therefore, all motorized vehicles are prohibited within the B.A.D. Overlay District, except as specifically provided below.** (For the purposes of this section, the term "motorized vehicles" shall include automobiles, trucks, motorized mowers, brush hogs, and other similar motorized equipment.)*

(1) Emergency vehicles (police, fire and ambulance) are permitted to operate within the B.A.D. Overlay District as reasonably necessary for law enforcement purposes and in response to actual emergencies.

(2) Non-emergency vehicles operated by the City or its contractors are permitted to operate within the B.A.D. Overlay District as reasonably necessary for maintenance of equipment associated with the City's water system.

(3) Motorized mowers, brush hogs, and other similar motorized equipment are permitted within that portion of the B.A.D. Overlay District lying within 100 feet of the building edge of any residential structure.

(4) Other than as provided in paragraphs A, B, and C above, vehicles may operate within the B.A.D. Overlay District only with advance permission from the City as evidenced by a vehicle access permit issued by the City Administrator. The City Administrator may issue such a permit to any public or private owner of real property contained within or abutting the area within the B.A.D. Overlay District, or to such property owner's contractor or agent, upon receipt of an application from such property owner specifying: (a) the purpose of the requested access, (b) the type of vehicle for which access is requested; (c) the specific areas of the B.A.D. Overlay District for which access is requested, including the proposed location at which any permitted vehicle will enter and exit the B.A.D. Overlay District; and (d) the dates and hours of day on which access is requested.

Upon receipt of such an application, the City Administrator shall issue a permit to the applicant if the City Administrator determines that the access requested by the applicant is reasonably necessary in order for the applicant to conduct lawful activities on property owned by such party (and otherwise permitted under this Ordinance) and that the requested access will not cause unreasonable environmental damage to the B.A.D. Overlay District. Any such permit shall state the period of time during which the permittee shall be allowed to operate a vehicle within the B.A.D. Overlay District (including specific dates and hours of day), as well as the specific areas in which such operation is allowed, the type of vehicle for which access is allowed, and the activities which may be performed with the allowed vehicle.

Recommendation No. 2: In order to prevent the use of motorized vehicles which is prohibited under the Ordinance, the City should install locked gates (or other access control devices) at all points where motorized vehicles are able to enter the B.A.D. Overlay District.

Recommendation No. 3: The existing provisions of Ordinance Section 3.1240.2.D (concerning Pruning and Trimming of Vegetation) should be repealed, and the following provisions should be adopted in their place:

D. Pruning, Trimming and Removal of Vegetation

It is the City's policy to limit the removal, destruction or uprooting of vegetation within the B.A.D. Overlay District, except as reasonably necessary to accomplish the following objectives: (a) elimination of diseased or dead vegetation, (b) elimination of noxious weeds, (c) limited pruning, thinning, and removal of trees for the purposes of preventing the spread of forestation beyond areas which are already heavily treed, managing views, reducing the risk of fire, and otherwise enhancing public safety, and (d) within the area lying within 100 feet of the building edge of any residential structure, mowing of beach grass and small shrubs and removal of trees for ornamental and fire-prevention purposes, all as more particularly described below.

Therefore, all removal, destruction or uprooting of vegetation is prohibited within the B.A.D. Overlay District, except as specifically provided below:

(1) Diseased or Dead Vegetation Every public and private owner of real property within the B.A.D. Overlay District is permitted to remove any diseased or dead vegetation from the property owner's own property.

(2) Noxious Weeds Every public and private owner of real property within the B.A.D. Overlay District is permitted to remove noxious weeds from the property owner's own property. For the purposes of this section, "noxious weeds" shall include Scotch Broom and all other plant species which are listed as noxious weeds by the Oregon Department of Agriculture.

(3) Trees Every public and private owner of real property within the B.A.D. Overlay District is permitted to prune, trim, or remove from such property any tree located on the property owner's own property which has a trunk diameter of six inches or less, with such diameter being measured at a height of four and one-half feet above ground level. Each such property owner is also permitted to prune and trim any tree located on the property owner's own property which has a diameter exceeding six inches, measured at a height of four and one-half feet above ground level, but any such pruning or trimming of such larger trees shall be limited to limbing-up to a height of six feet above ground level, or removal of not more than 20% of the tree's then-current growth above ground level, whichever is less, and with any such pruning or trimming being performed no more frequently than one time during any 12-month period ("topping" of trees is not permitted).

(4) Fire Buffer Safety Zone Every public and private owner of real property within the B.A.D. Overlay District is permitted to remove from such property owner's own property any tree which is located within 100 feet of the building edge of any residential structure, and each such property owner is permitted to mow to ground level any beach grass, small shrubs, and other vegetation which is on such property owner's own property and within 100 feet of the building edge of any residential structure.

(5) Any property owner which engages in any of the vegetation-management activities which are permitted under this section is required to properly remove from the B.A.D. Overlay District substantially all of any debris of organic material which results from such vegetation-management activities promptly after such activities have taken place.

(6) Any action which a property owner is permitted or required to take under this section may be taken by the property owner either directly or indirectly (through the use of a contractor, or agent, or by allowing a third party to take the permitted action with the property owner's consent).

(7) The City shall make available to the public a written set of guidelines which shall advise property owners regarding methods for permitted pruning, trimming, and removal of vegetation which are recommended in order to make such efforts effective, while mitigating potential negative impact to other surrounding vegetation or to nearby wildlife and wildlife habitat.

Recommendations from Dunes Vegetation Committee
July 7, 2017
Page Four

Recommendation No. 4: The Committee notes that, in addition to the provisions of Section 3.12 which regulate vegetation-management activities within the B.A.D. Overlay District generally, there is also a provision in Section 6.195 of the Ordinance (6.195.5.C) which allows the City Administrator to issue a permit for removal of trees which are larger than 12" diameter (measured at a height of four and one-half feet above ground). The provision in Section 6.195.5.C is not consistent with the Committee's Recommendation No. 3 and, therefore, the Committee recommends that Section 6.195.5.C be repealed.

Respectfully submitted by the Dunes Vegetation Committee
July 7, 2017