

## **CHAPTER XX**

### **BEACH, DUNE AND SOIL REMOVAL REGULATIONS**

#### **20-1 REMOVAL OF SAND PROHIBITED.**

It shall be unlawful for any person to remove or cause to be removed, sand deposited by natural causes from any property within the Borough, whether public or private, and transport or move the same, or cause the same to be transported or moved, to any location other than the Surf City beachfront. (1969 Code § 16-1)

#### **20-2 FILLING OF LANDS BELOW GRADE.**

**20-2.1 Land Fill Required.** The owner of any parcel or lot of land in the Borough which is below grade or which contains holes or depressions below street grade, shall fill the same with a clean fill to the grade of the center of the street on which the lot fronts, within thirty (30) days after service upon him with a notice to make such fill. (1969 Code § 16-2.1)

**20-2.2 Special Requirements.** Notwithstanding the provisions of subsection 20-2.1, the owner of any parcel or lot of land in blocks 94, 97, 98, 99, 113, 114, 115 and 116, and the southerly one-half (1/2) of block 100, shall fill the same with a clean fill in such a manner that at the curblines such lots are graded to the crown of the street and at the rear lot line are graded to seven (7") inches above the crown of the street on which the lot fronts, within thirty (30) days after service upon him of notice to make such fill. (1969 Code § 16-2.2)

**20-2.3 Fill to Be Performed by Borough and Lien Imposed.**

In the event of failure of a property owner to make the fill required in the time required, such fill may be made by the Borough and in such event the cost thereof shall become a lien upon the lands involved and shall be added to and become a part of the taxes next to be assessed against and levied upon the land, the same to bear interest at the same rate as taxes and be collected and enforced by the same officers and in the same manner as Municipal taxes on real property. (1969 Code § 16-2.3)

**20-2.4 Notice.** The notice required to be served upon the property owner shall be signed by the Secretary of the Board of Health and may be served upon all owners residing in the Borough, either personally or by leaving the same at their usual place of abode with a member of the household above the age of fourteen (14) years. If the owner is not a resident of the Borough, the notice may be served upon him personally, or upon his agent in charge of the property, or upon such an occupant thereof, or mailed to such nonresident owner at his address as shown upon the tax records of the Borough. (1969 Code § 16-2.4)

**20-2.5 Proof of Service.** Proof by affidavit of the service of such notice shall be filed in the office of the collector of taxes of the Borough. (1969 Code § 16-2.5)

**20-3 BEACH AND DUNE REGULATIONS.**

**20-3.1 Findings and Declaration.** It has been clearly demonstrated that well established and protected sand dunes, together with berms, beaches and underwater slopes of suitable configuration and of proper grade and height, are a durable and effective protection against high tides and flooding, and against damage by the ocean under storm conditions, and are the natural protection of the coastal areas adjacent thereto, and the State and its subdivisions and their

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inhabitants have an interest in the continued protection thereof, and in the right to restore them in the event of damage or destruction.

These dunes are vulnerable to erosion by both wind and water, but primarily by wind, since its attack against the dunes are sustained for substantial and frequently recurring periods of time, whereas, if protected by typical berms, beaches and underwater slopes, the dunes are attacked by water only at infrequent intervals. The best available means of protecting these dunes against wind erosion is by preventing indiscriminate trespassing, construction or other acts which might destroy or damage the dunes, and through the use of native plantings, supplemented by sand fencing and other devices designed to prevent free blowing sand and the maintenance of the surface tensions, root accumulations, normal contours and other features found in typical natural dunes.

It is the purpose of this section to define the areas so affected and to establish regulations to assure their continued effectiveness. This section is declared to be an exercise of the Police power in the interest of safety and welfare and for the protection of persons and property.

The interference with or the depletion of the beach and sand dunes tends to permit encroachment by the sea and the conditions above recited make it imperative that the Borough Council regulate and control the removal of sand from the beach or dunes or any other interference with or depletion of the protective barrier on the oceanfront of the Borough. (1969 Code § 16-3.1)

### 20-3.2 Definitions. As used in this section:

*Backshore* shall mean that zone of the shore or beach lying between the foreshore and dune area, and normally acted upon by waves only during severe storms, especially when combined with exceptionally high water.

*Beach* shall mean the zone of unconsolidated material that extends landward from the low water line to the place where there is marked change in material or physiographic form, i.e., dune or bulkhead and shall include foreshore and backshore.

*Beach-dune area* shall mean the district set off by this section, to include the dunes, beaches, strand, backshore and foreshore, and the areas where, according to a normal beach profile the same would or should exist. The beach-dune area, as defined herein, has been established by Thomas J. Taylor Associates, Borough Engineers, and comprises all that area lying eastwardly of the bulkhead and building line as hereinafter defined.

*Boardwalk* shall mean and include the term "walkway" or "walkover" and shall mean a walk or promenade of planking built across the dune line or berm(s) to connect the street ends or other property with the open beach. These shall be perpendicular to the western boundary of the dune zone, and in no case shall a wooden promenade parallel to or along the beach be permitted. The height, width, length and type of construction of these must be approved by the Department of Environmental Protection and the Municipal Zoning Officer.

*Brush type* shall mean and consist of dead bushes, trees, reeds or similar debris collected in bundles and fixed by stakes or similar means.

*Bulkhead and building line* shall mean a line established by the Borough Engineer as shown on maps of the Borough, approved by resolution of the Borough Council and on file as public records in the office of the Borough Clerk.

*Dune area* shall mean the area actually or normally occupied by dunes or manmade dunes. For purposes of this chapter, it shall be construed to include its actual dimensions but not less than a minimum of fourteen (14') feet elevation above sea level at the bulkhead line, and a

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minimum of sixteen (16') feet elevation above mean sea level at the oceanfront building line.

*Dune line* shall mean a row of dunes, which may blend in with a berm, or berms, which blend in with each other, are roughly parallel to the ocean, and serve as a protective barrier against the elements.

*Dunes* shall mean a hill of sand accumulated along the beach front, usually by natural means. It shall extend from the backshore to the line where the normal leeward slope intersects the established grade of the hinterlands.

*Foreshore* shall mean the part of the shore, lying between the crest of the seaward berm and the ordinary low water mark, that is ordinarily traversed by the uprush and backrush of the waves.

*Mean sea level* shall mean and include the term sea level and shall refer to the 1929 Sea Level Datum established by the U.S. Coast and Geodetic Survey, or such other datum as may be established by the U.S. Army Corps of Engineers or other properly authorized agencies.

*Natural dune* shall mean a dune created by natural forces, or one that has developed the contours, vegetation, root systems, etc., characteristic of dunes so created.

*Natural vegetation* shall mean and include the terms native vegetation or indigenous vegetation. Specifically, it shall mean such plants as beachgrass (*Ammophila breviligulata*), dusty miller (*Artemisia stelleriana*), hudsonia (*Hudsonia tomentosa*), sea rock (*Cakile endentula*), seaside goldenrod (*Solidago sempervirens*), bayberry (*Myrica Pennsylvanica*), or beach plum (*Prunus maritima*) which normally grow, or may be planted on the slopes of dunes or behind them. No distinction is made as to how such plants are introduced into their location.

*Picket type* shall mean the commercial variety of light wooden fence, held together by wire and secured by posts.

*Sand fence* shall mean and include the term snow fence and may mean either of two (2) types of barricades established in a line or a pattern to accumulate sand and aid in the formation of a dune.

*Slope, leeward* shall mean the face or surface of the dune or berm going from its crest or plateau away from the ocean.

*Strand* shall mean the same area included within the definition of beach.

(1969 Code § 16-3.2; Ord. No. 2009-08 § 1)

**20-3.3 Application of Regulations.** This chapter shall be applicable to the beach-dune area as hereinbefore defined. (1969 Code § 16-3.3)

**20-3.4 Construction in Foreshore or Backshore Areas.** No construction of any sort shall be allowed in the foreshore or backshore areas thereof, except protective works undertaken by the Borough, with the approval of the Bureau of Navigation of the State of New Jersey and/or the U.S. Army Corps of Engineers as applicable. (1969 Code § 16-3.4)

**20-3.5 Construction in Beach-Dune Area.** No construction of any sort shall be allowed in the remainder of the beach-dune area except the following:

- a. Any use mentioned in subsection 20-3.4.
- b. Boardwalks and steps to permit access across the dunes or berms to the open beach, without damage to the dunes themselves.
  1. Such boardwalk and/or steps must meet the standards established by the State of New Jersey Department of Environmental Protection.
  2. No such boardwalk and/or steps shall be constructed or placed upon any dune or berm without having first obtained a zoning permit issued by the Zoning Official of the Borough of Surf

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City. Application for a zoning permit shall be made on forms prescribed by the Zoning Official which shall be accompanied with a zoning permit fee in the amount of fifteen (\$15.00) dollars. The application shall include a property survey and a State of New Jersey Department of Environmental Protection (N.J.D.E.P.) waterfront development permit or N.J.D.E.P. issued letter of no interest.

3. Any such roll out type walkway, boardwalk, steps or pathway traversing the dune must be paralleled by sand and a dune fence, which shall not exceed four (4') feet in height. Such pathway shall not exceed five (5') feet in width and may not be utilized for storage, sitting or lounging.
  4. All precautions must be taken to ensure the natural vegetation of the dune is not stripped or disturbed. Under no circumstances shall the dunes or beach sand be moved or displaced.
  5. Arrangements must be made with the Borough Superintendent of Public Works for opening of sand or dune fence which runs parallel to the beach.
- c. Sand fences to encourage the accumulation of sand.
- d. Pavilions or similar small platforms of less than three hundred (300) square feet in area, provided they do not have more than forty (40%) percent solid walls, are mounted on suitable pilings, and the area for twenty (20') feet around them is suitably planted with beach grass or other natural vegetation capable of stabilizing the sand in such area, provided further it shall be established to the satisfaction of the Borough Engineer that the proposed design and construction methods, as applied to the particular site situation and time, will not:
1. Unreasonably disturb the existing dunes;

2. Be likely to create wind currents detrimental to the existing dunes; or
3. Be likely to create, increase or prolong any other hazard.

The design and construction of any such pavilion or platform shall include any feature, device or provision required by the Borough Engineer to carry out the intent of this chapter.

- e. A bulkhead designed to replace or supplement dunes as herein described, provided that, before any permit shall be issued or be effective for the construction of any such bulkhead, it shall be demonstrated by competent engineering studies and design that such bulkhead will:
  1. In every respect provide as much protection as the dunes intended to be in such area, in optimum condition, would provide.
  2. Create, increase, or prolong no condition likely to be detrimental to the maintenance of an adequate dune line.
  3. Conform adequately with the overall beach protection plans of the Borough, the Bureau of Navigation, and the U.S. Army Corps of Engineers.
  4. No bulkhead shall be constructed eastwardly of the bulkhead and building line as defined in subsection 20-3.2.
- f. All construction in this area must maintain the grades and elevations as set forth in the definition of dune area in subsection 20-3.2. In addition, such construction shall be accompanied by elevations which will maintain a straight decline westwardly from the oceanfront building line to the existing elevation of the westwardly adjacent graded lot or street as the case may be; where no street or graded lot exists within one hundred fifty (150') feet of the building line, the decline shall be to a

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minimum of twelve (12') feet elevation above mean sea level along a line one hundred (100') feet westwardly from the oceanfront building line and parallel therewith. The first floor of any structure shall be at least three (3') feet above the dune area elevation as defined above.

The Borough Council shall conduct or require such hearings, and the production of such proofs as it shall reasonably consider necessary to establish the foregoing. (1969 Code § 16-3.5; Ord. No. 2009-08 §2)

**20-3.6 Access to Open Beach.** Access to the open beach in this zone shall be obtained only across street ends or along properly constructed and authorized boardwalks with steps. Where boardwalks and steps are constructed in street and extensions, access should be across such boardwalks and steps only. (1969 Code § 16-3.6)

**20-3.7 Fencing.** The Borough may erect or require the construction of fencing along the western limits of the backshore and dune areas and provide or require suitable markings to identify the same. Persons may enter such areas only to carry out the purposes of this chapter. Where walkways or boardwalks exist, the same shall be suitably bordered with fences to prevent damage to the dunes or berms which they cross. (1969 Code § 16-3.7)

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### **20-3.8 Moving or Displacement of Sand; Permit Required.**

- a. No person shall authorize or participate in any manner in the moving or displacement of sand within the beach-dune area unless a permit therefor shall have been issued pursuant to an application in writing to the Borough Council. The application shall contain the following information:
  - 1. Name and address of applicant.
  - 2. Location of sand to be moved or displaced.
  - 3. The nature and purpose of the proposed moving or displacement.
  - 4. Proposed method by which the applicant desires to move or displace the sand, including a description of the equipment, machinery or other apparatus to be used.
  - 5. Estimate in terms of cubic yards as to the quantity of sand to be moved or displaced.
  - 6. Such other information as may be required by the Borough Council.
- b. No such permit shall be issued without a determination by the Borough Council based upon an inspection of the area involved and a report thereon by the Borough Engineer, that such removal will not create or increase a danger or hazard to life or property. No permit will be granted if the proposed moving or disbursement will:
  - 1. Adversely affect the littoral drift on the beach-dune area; result in a reduction of dune protection and the dune area or defined in subsection 20-3.2 of this chapter; and
  - 2. Interfere with the general configuration of the beach-dune area of the subject property or neighboring properties;

3. Take place between June 15 and the following March 15. All work authorized shall be finished by June 15 and may be started no earlier than March 15.
- c. A deposit of seven hundred (\$700.00) dollars shall be made by the applicant at the time of issuance of a permit. Such deposit shall be refunded upon the Borough Engineer's approval of the work which has been done. If the work has not been done in compliance with the specifications contained in this subsection, the Borough shall have the right to have the work done as so required, charging the cost thereof against the deposit. Any portion of the deposit remaining unused for such purpose shall be returned to the applicant. No interest will accrue on funds deposited as a performance guarantee.
- d. Specifications for moving or displacement of sand shall be as follows:
  1. The applicant or the applicant's contractor shall in the process of performing work on the dune maintain the elevation of the dune as established by the Borough Engineer.
  2. The applicant shall preserve the existing dune grass and replant the dune grass after the final grading has been completed. In no case will the coverage of dune grass be less than twelve (12") inches on center in any direction. All new plantings are to be fertilized with a suitable fertilizer;
  3. The applicant shall place a one (1") inch mat of salt hay over the entire area of the dune which has been disturbed during construction.
  4. The applicant shall install new sand fence along the centerline of the dune and position the sand fence so that it conforms with the alignment of

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existing sand fence installations to the north and south.

5. The applicant shall notify the Borough Engineer and the Borough Construction Official twenty-four (24) hours in advance of the time that construction work will start. The applicant's contractor shall work in a diligent manner and shall fully complete the restoration within ten (10) days after the start of work.
- e. *Jurisdictional Determination.* No person shall be authorized to displace sand or shall be granted a permit under this subsection until a jurisdictional determination is obtained from the State of New Jersey, Department of Environmental Protection stating whether or not a CAFRA permit is required prior to work being performed. Should a CAFRA permit be required, it must be obtained prior to the application for a municipal permit. Evidence of receipt of a jurisdictional determination or CAFRA permit must be submitted to the municipality prior to any application for consideration by the Borough of Surf City.  
(1969 Code § 16-3.8; Ord. No. 70-10 § 1; Ord. No. 72-4; Ord. No. 04-08 § I)

**20-3.9 Permit Restrictions.** No permit will be granted and it shall be unlawful for any person to authorize or participate in:

- a. The removal of sand from the beach-dune area or from any street end.
- b. The removal or destruction of natural vegetation within the beach-dune area. When a permit is granted to reduce the height of the dune, the application shall preserve the existing dune grass and replace it on the new level.  
(1969 Code § 16-3.9; Ord. No. 70-10 § 2)

**20-3.10 Sand Moved by Winds and/or Tides.** Where by action of high winds and/or tides, sand is blown or washed upon lands, including street ends, lying westwardly from the dune line, such sand shall not be removed from the lands unless a permit therefor shall have been issued pursuant to and in full compliance with the requirement set out in subsection 20-3.9. (1969 Code § 16-3.10)

**20-3.11 Permit Fee.** Each application for a permit under the provisions hereof shall be accompanied by a fee of one hundred fifty (\$150.00) dollars, which sum shall include payment for inspection by the Borough Engineer and the processing of the application for a permit. However, the property owner shall be responsible for the retention and payment of his own licensed professional engineer for the filing of the application in conformity with the requirement of the application for a permit under the terms of the provisions of this section. (Ord. No. 76-4 § 3)

**20-3.12 Administration and Penalties.** The Borough Engineer shall by such surveys and calculations as he finds necessary, locate the beach-dune areas as defined in this chapter, and plot the same on a plan of the Borough, which plotting, or a copy thereof, shall be on file in the office of the Borough Clerk and available for inspection. He shall make any corrections in his findings and plottings that changes in the natural or artificial features of the terrain may justify or require.

The Construction Official is designated as the person responsible for the enforcement of this section. (1969 Code § 16-3.12)

**20-3.13 Alternate Authority.** Should any provision of this chapter as applied to any specific parcel of land be adjudged by any court of competent jurisdiction to be a taking within the meaning of the statutes relating to the exercise of the power of eminent domain, the Borough may, at its opinion, if the public safety, welfare or need so requires, pay into court

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or otherwise secure the value of such land, and proceed to take title to the same in accordance with the procedure then provided by law. (1969 Code § 16-3.13)

### **20-4 MUNICIPAL EXCESS FILL DIRT.**

It is the policy of the Borough of Surf City to provide to any property owner requesting same, excess fill dirt which may be available from time to time due to municipal construction projects. Excess fill shall be provided to those requesting same in the following manner:

- a. Persons requesting excess fill dirt shall submit their name, address, telephone number and location of property where fill is to be placed to the Municipal Clerk's Office which shall be placed on a rotating list.
- b. Said list shall be made available to the Borough Administrator and Borough Superintendent when requested and as excess fill becomes available.
- c. Fill dirt shall be delivered, if so requested, to the property location, or placed by the Borough upon the trucks so designated by the property owner. The property owner or his duly authorized agent shall be responsible to spread the fill.
- d. Property owners shall be removed from the rotating list upon the delivery of fill.
- e. Property owner or his duly authorized agent shall be called by the Municipal Clerk's Office prior to the delivery of excess fill to verify location and continued need.
- f. The excess fill dirt is provided "as is," "where is" and "how is." The Borough of Surf City and its employees make no representation to the nature and/or quality of the fill provided by the Borough.

- g. The property owners, by requesting the excess fill dirt either personally or through a duly authorized agent, hereby agree to indemnify and hold the Borough of Surf City and its employees harmless from any and all causes of action that may arise in connection with the pickup and or delivery and the use of the excess fill dirt on the premises in question and further agrees to indemnify, defend and save the Borough of Surf City, its agents and employees, harmless of and from all losses, costs, liabilities, claims, damages and expenses, including reasonable attorney's fees, penalties and fines incurred in connection with or arising from loading, delivery and use of the excess fill dirt by the Borough of Surf City.  
(Ord. No. 97-2 § I)

## **20-5 BEACH AND DUNE PROTECTION.**

**20-5.1 Title.** This section shall be known and cited as the "Beach and Dune Protection Ordinance." (Ord. No. 2006-08 § 1)

**20-5.2 Findings and Declarations; Purpose.** The Mayor and Governing Body of the Borough of Surf City finds and declares that the protection of the ravages of the Atlantic Ocean's storms, hurricanes, high tides, etc., is essential to the protection of persons and property and for the protection of the public health, safety and welfare of the municipality and its inhabitants. That the beach-dune system is the front line of protection for the life and property of the Borough. The Mayor and Governing Body further finds and declares that contouring of the beach-dune system is essential to proper beach and dune maintenance and that a properly maintained contour of the beach-dune system is essential in diminishing wave wash and wind velocity erosion. It is the purpose of this section to protect the people and property of the Borough and to preserve the health, safety and welfare of the Borough and its inhabitants by regulating and promoting beach-dune system protection.

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That the maintenance of the beach-dune system, when necessary on private property, is the responsibility of the property owner(s) and, in the absence of such maintenance, the Borough, in consultation with its Municipal Engineer, shall take the necessary measures to restore that portion of the beach-dune system that falls upon private property in order to protect the interests of the Borough. (Ord. No. 2006-08 § 1)

### **20-5.3 Definitions.** As used in this section:

*Beach-dune system* shall mean that area which extends from the mean high water line of the Atlantic Ocean at elevation 1.5 NAVD 1988 to a point west of the bulkhead line at elevation 6.0 NAVD 1988.

*Bulkhead line* shall mean a line established by the Borough Engineer as shown on maps of the Borough, and approved by resolution of the Borough Council.

*Dune* shall mean a hill of sand accumulated along the beachfront by natural or manmade means.

*NAVD* shall mean North American Vertical Data.

*Restoration* shall mean construction, improvements, repairs, and maintenance activities, which may include but are not limited to the placement of beach sand, fill, geotubes or other material(s) in conformance with the requirements of this section.

(Ord. No. 2006-08 § 1)

**20-5.4 Base Profile Map.** The Municipal Engineer shall prepare a base profile map of the beach-dune system which shall set forth the slopes, grades, contours and elevations of the beach-dune system. The base profile map shall be approved by resolution of the Governing Body and shall be utilized as the basis for all beach-dune system restoration. (Ord. No. 2006-08 § 1)

**20-5.5 Beach and Dune Maintenance Responsibility of Property Owner.** The owner or owners of lands that have been diminished by wave wash, wind or any other conditions that would reduce the beach-dune system below the standards set by the Engineer's base profile map shall, subject to the notice as hereinafter provided, restore at his or her or their own proper cost and expense, the beach-dune system in accordance with the grades, slopes and contours as set forth in the base profile map and pursuant to the specifications of the Borough Engineer. (Ord. No. 2006-08 § 1)

**20-5.6 Notice to Property Owners; Improvements by Borough.** Whenever in the opinion of the Borough Engineer the conditions along the beach-dune system have been diminished so as to require beach-dune system restoration in order to maintain the necessary grades, slopes or contours as established by the base profile map, a notification of deficiency shall be made to the property owners of the affected properties or lands upon which the restoration is required. Notice shall be given by: (1) Serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) Mailing a copy thereof by certified mail and regular mail to the property owner at his address as shown on the current tax duplicate. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon his president, a vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Property owners who wish to perform their own beach-dune system restoration shall be able to do so at their own cost and expense and must apply to the Borough for a restoration permit in accordance with the provisions of subsection 20-5.7 of this chapter within ten (10) days of receipt of the notice of deficiency. If an owner who has received notice in accordance with the provisions of this section fails to perform the restoration activities as set forth herein, then in

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that event, the Borough shall have the right to perform the required restoration by or under the direction of an officer of the municipality. (Ord. No. 2006-08 § 1)

**20-5.7. Restoration Permit; Application; Fee.** No property owner shall commence any restoration to the beach-dune system as required by this section unless he or she shall have first obtained a restoration permit from the Borough upon application on forms prescribed by the Borough Clerk or Borough Engineer. The application shall include a description of the restoration activities to be performed, the equipment to be used, and any other information which in the opinion of the Borough Engineer is necessary to properly review the proposed restoration work. A restoration permit application fee shall be paid to the Borough in the amount of twenty-five (\$25.00) dollars which sum shall be used for review of the application and inspection of the work to be performed. Property owners performing beach-dune system restoration at their own cost and expense shall be responsible for obtaining any and all other permits as may be required by State or Federal law. (Ord. No. 2006-08 § 1)

**20-5.8. Notice to Proceed; Time for Completion.** Upon approval of the application for a restoration permit by the Governing Body or its designee, the Borough shall issue a notice to proceed to the property owner. All restoration work approved under the permit shall commence within ten (10) days of the issuance of the notice to proceed, and all work must be completed by the owner within thirty (30) days of the issuance of the notice to proceed unless such time for commencement or completion has been extended by approval of the Governing Body. In the event that the owner fails to either commence or complete the restoration work within the approved times, then, in that event, the Borough shall have the right to perform the required restoration work, the cost of which shall be charged against the property restored in accordance with the provisions of subsection 20-5.9. In no event

shall restoration take place between June 15 and the following March 15. All work authorized shall be finished by June 15 and may be started no earlier than March 15 unless otherwise approved by the Governing Body. (Ord. No. 2006-08 § 1)

**20-5.9 Determination of Costs; Lien.** In all cases where any beach-dune system restoration has been performed by the Borough under the provisions of this section on private lands, the Borough Engineer or Officer of the Borough in charge of the beach-dune system restoration shall certify the costs thereof to the Governing Body. Upon receipt of the certificate of costs, the Governing Body shall examine the same and, if found correct, shall cause the cost as shown thereon to be charged against the property on which the beach-dune system restoration was performed. The amount so charged shall become a lien upon such lands and shall be added to and become and form part of the taxes next to be assessed and levied upon said lands, the same to bear interest at the same rate as other taxes, and shall be collected and enforced by the Tax Collector of the Borough. (Ord. No. 2006-08 § 1)

**20-5.10 Preexisting Dunes on Private Property.** Notwithstanding any provision to the contrary, nothing in this section shall be construed to require property owners to increase the height or elevation of dunes found on private property as of the date of enactment of this section provided, however, the property owner(s) provide to the Borough a survey of the existing dune profile setting forth the dune elevation and contours which survey shall be performed by a licensed engineer or surveyor and submitted to the Borough within thirty (30) days from the enactment of this section. The survey, when properly submitted, shall be included as part of the base profile map of the Borough and shall be used as the basis for beach-dune system restoration on said property unless, in the opinion of the Borough Engineer, the existing grades, profiles, contours or elevations of the existing beach-

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dune system as set forth in the survey are inadequate for the proper protection of the beach-dune system or the Borough. (Ord. No. 2006-08 § 1)

**20-5.11 Conflict of Laws.** In the event that it shall be determined that any provision of this section shall conflict with the provisions of any other sections or chapters of the Revised General Ordinances of the Borough of Surf City, the provisions of this section shall control. (Ord. No. 2006-08 § 1)

### **20-5.12 Violations and Penalties.**

- a. Any person violating or failing to comply with any of the provisions of this chapter shall upon conviction thereof, be punishable by a fine of not more than one thousand (\$1,000.00) dollars, by imprisonment for a term not to exceed ninety (90) days or by community service of not more than ninety (90) days, or any combination of fine, imprisonment or community service as determined in the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- b. The violation of any provision of this chapter shall be subject to abatement summary judgment or a restraining order or injunction issued by a court of competent jurisdiction.  
(Ord. No. 2006-08 § 1)