

APPENDIX E.
COASTAL EROSION HAZARD ACT REGULATIONS
(excerpted)

[Sections **505.1 - 505.4** contain the Purpose, Definitions of terms, Functions of natural features, and Applicability of the Regulations.]

505.5 Coastal erosion management permits; regulatory procedures.

- (a) Any person proposing to undertake a regulated activity within a designated erosion hazard area must first obtain a coastal erosion management permit. ["Regulated activity" means the construction, modification, restoration or placement of a structure, or major addition to a structure, or any action or use of land which materially alters the condition of land, including grading, excavating, dumping, mining, dredging, filling, or other disturbance of soil. "Structure" means any object constructed, installed or placed in, on, or under land or water including, but not limited to, a building; permanent shed; deck; in-ground and above ground pool; garage; mobile home; road; public service distribution, transmission or collection system; tank; pier; dock; wharf; groin; jetty; seawall; revetment; bulkhead; or breakwater; or any addition to or alteration of the same.]

[(b) through (e) of this section contains application requirements and jurisdictional information.]

505.6 Standards for issuance of coastal erosion management permits.

A coastal erosion management permit will be issued only if the commissioner finds that the proposed regulated activity:

- (a) is reasonable and necessary, considering reasonable alternatives to the proposed activity and the extent to which the proposed activity requires a shoreline location;
- (b) will not be likely to cause a measurable increase in erosion at the proposed site or at other locations; and
- (c) prevents, if possible, or minimizes adverse effects on:
- (1) natural protective features and their functions and protective values as described in section **505.3** of this Part;
 - (2) existing erosion protection structures; and
 - (3) natural resources including, but not limited to, significant fish and wildlife habitats and shellfish beds.

505.7 Restrictions on regulated activities within structural hazard areas [shorelands located landward of natural protective features and having shorelines receding at a long-term average annual recession rate of 1 foot or more per year].

- (a) Movable structures [including mobile homes and structures built on skids or piles] may be constructed or placed within a structural hazard area only if a coastal erosion management permit has been granted. Coastal erosion management permit requirements include the following.
- (1) No permanent foundation is attached to the movable structure and any temporary foundations are removed at the time the structure is moved. Below-grade footings will be allowed if satisfactory provision is made for their removal.

- (2) No movable structure may be placed closer to the landward limit of a bluff than 25 feet.
 - (3) No movable structure may be placed or constructed so that, according to accepted engineering practice, its weight places an excessive ground loading on a bluff.
 - (4) A plan for the landward relocation of a movable structure, when threatened by shoreline recession, must be included with each coastal erosion management permit application.
 - (5) Movable structures, which have been located within an erosion hazard area pursuant to a coastal erosion management permit, must be removed before the receding edge recedes to within 10 feet of the most seaward point of the movable structure.
 - (6) Debris from structural damage which may occur as a result of sudden, unanticipated bluff edge failure or erosion must be removed within 60 days of the damaging event.
 - (7) The last owner of record, as shown on the latest assessment roll, or real property upon which a movable structure is placed is responsible for removing that structure and its foundation, unless the last owner of record and the owner of the structure, if the structure is not owned by the last owner of record, have made an agreement providing otherwise in a form acceptable to the department.
- (b) The construction or placement of a non-movable structure, or non-movable major addition to an existing structure, is prohibited within structural hazard areas.
 - (c) A coastal erosion management permit is required for the installation of public service distribution, transmission, or collection systems for gas, electricity, water, or wastewater. Systems installed to serve coastline development along mainland shorelines must be located landward of the shoreline structures being served.
 - (d) Any grading, excavating, or other soil disturbance conducted within a structural hazard area must not direct surface water runoff over a bluff face.

505.8 Restrictions on regulated activities within natural protective feature areas [...containing natural protective features, the alteration of which might reduce or destroy the protection afforded other lands against erosion or high water, or lower the reserves of sand or other natural materials available to replenish storm losses through natural processes.]

- (a) Nearshore areas. The following restrictions and requirements apply to regulated activities in nearshore areas.
 - (1) Excavating, grading, mining, or dredging which diminishes the erosion protection afforded by nearshore areas is prohibited. However, coastal erosion management permits for dredging may be issued for constructing or maintaining navigation channels, bypassing sand around natural and man-made obstructions, or artificial beach nourishment.
 - (2) All development is prohibited in nearshore areas unless specifically allowed by subdivision 505.8(a) of this Part.

- (3) The normal maintenance of structures may be undertaken without a coastal erosion management permit.
 - (4) Clean sand or gravel of an equivalent or slightly larger grain size is the only material which may be deposited within nearshore areas. Any deposition will require a coastal erosion management permit.
 - (5) A coastal erosion management permit is required for new construction, modification, or restoration of docks, piers, wharves, groins, jetties, seawalls, bulkheads, breakwaters, revetments, and artificial beach nourishment. Docks, piers, wharves, or structures built on floats, columns, open timber, piles, or similar open-work supports having a top surface area of 200 square feet or less, or docks, piers, wharves, or other structures built on floats and removed in the fall of each year are excepted from this permit requirement.
- (b) Beaches. The following restrictions and requirements apply to regulated activities on beaches.
- (1) Excavating, grading, or mining which diminishes the erosion protection afforded by beaches is prohibited.
 - (2) All development is prohibited on beaches unless specifically allowed by subdivision 505.8(b) of this Part.
 - (3) The normal maintenance of structures may be undertaken without a coastal erosion management permit.
 - (4) The restoration of existing structures that are damaged or destroyed by events not related to coastal flooding and erosion may be undertaken without a coastal erosion management permit.
 - (5) Non-major additions to existing structures may be allowed on beaches pursuant to a coastal erosion management permit.
 - (6) The following restrictions apply to the use of motor vehicles on beaches:
 - (i) motor vehicles must operate seaward of the upper debris lines at all times. On those beaches where no debris line exists motor vehicles must operate seaward of the toe of the primary dune; and
 - (ii) motor vehicles must not travel on vegetation.
 - (7) A coastal erosion management permit for deposition of material on beaches will be issued only for expansion or stabilization of beaches; clean sand or gravel of an equivalent or slightly larger grain size must be used.
 - (8) Beach grooming or clean-up operations do not require a coastal erosion management permit.
 - (9) A coastal erosion management permit is required for new construction, modification, or restoration of docks, piers, wharves, boardwalks, groins, jetties, seawalls, bulkheads, breakwaters, revetments, and artificial beach nourishment. Docks, piers, wharves, or structures built on floats, columns, open timber, piles, or similar open-work supports having a top surface area of 200 square feet or less or docks, piers, wharves, or other structures built on floats and removed in the fall of each year are excepted from this permit requirement.

- (10) Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved in writing by the department.
- (c) Bluffs. The following restrictions and requirements apply to regulated activities on bluffs.
- (1) Excavating, grading, or mining of bluffs is prohibited except where:
 - (i) the minor alteration of a bluff is done in accordance with conditions stated in a coastal erosion management permit issued for the construction of an erosion protection structure; or
 - (ii) a bluff cut is made in a direction perpendicular to the shoreline to provide shoreline access. The ramp slope of bluff cuts must not be steeper than 1:6 and the side slopes must not be steeper than 1:3, if not terraced or otherwise structurally stabilized. Side slopes and other disturbed non-roadway areas must be stabilized with vegetation or other approved physical means and completed roadways must be stabilized and drainage provided for, all in accordance with terms and conditions of a coastal erosion management permit.
 - (2) Vehicular traffic is prohibited on bluffs.
 - (3) All development is prohibited on bluffs unless specifically allowed by subdivision 505.8(c) of this Part.
 - (4) The normal maintenance of structures may be undertaken without a coastal erosion management permit.
 - (5) The restoration of existing structures that are damaged or destroyed by events not related to coastal flooding and erosion may be undertaken without a coastal erosion management permit.
 - (6) Non-major additions to existing structures may be allowed on bluffs pursuant to a coastal erosion management permit.
 - (7) A coastal erosion management permit is required for new construction, modification, or restoration of erosion protection structures, walkways, or stairways. Elevated walkways or stairways constructed solely for pedestrian use and built by or for an individual property owner for the limited purpose of providing non-commercial access to the beach are excepted from this permit requirement.
 - (8) Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved in writing by the department.
 - (9) Any grading, excavating, or other soil disturbance conducted on a bluff must not direct surface water runoff over a bluff face.
- (d) Primary dunes. The following restrictions and requirements apply to regulated activities on primary dunes.
- (1) Excavating, grading, or mining of primary dunes is prohibited.
 - (2) Vehicular traffic is prohibited on primary dunes, except in those areas designated by the department for dune crossing.

- (3) Non-major additions to existing structures are allowed on primary dunes pursuant to a coastal erosion management permit and subject to permit conditions concerning the location, design, and potential impacts of the structure on the primary dune.
 - (4) Foot traffic which causes sufficient damage to primary dunes to diminish the erosion protection afforded by them is prohibited. Pedestrian passage across primary dunes must utilize elevated walkways and stairways, or other specially designed dune crossing structures approved by the department.
 - (5) All development is prohibited on primary dunes unless specifically allowed by subdivision 505.8(d) of this Part.
 - (6) The normal maintenance of structures may be undertaken without a coastal erosion management permit.
 - (7) The restoration of existing structures that are damaged or destroyed by events not related to coastal flooding and erosion may be undertaken without a coastal erosion management permit.
 - (8) A coastal erosion management permit is required for new construction, modification, or restoration of stone revetments or other erosion protection structures compatible with primary dunes. Such erosion protection structures will only be allowed at the seaward toe of primary dunes and must not interfere with the exchange of sand between primary dunes and their fronting beaches.
 - (9) A coastal erosion management permit is required for new construction, modification or restoration of elevated walkways or stairways. Elevated walkways or stairways constructed solely for pedestrian use and built by or for an individual property owner for the limited purpose of providing non-commercial access to the beach are excepted from this permit requirement.
 - (10) Clean sand obtained from excavation, dredging, or beach grading may be deposited on a primary dune, or on an area formerly a primary dune, to increase its size or restore it. Such deposition must be vegetatively stabilized using native species tolerant to salt spray and sand burial, e.g. American beach grass. Such deposition requires a coastal erosion management permit.
 - (11) Vegetative planting and sand fencing, to stabilize or entrap sand in order to maintain or increase the height and width of dunes, does not require a coastal erosion management permit. Vegetative plantings must be of native species tolerant to salt spray and sand burial, e.g. American beach grass.
 - (12) Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved in writing by the department.
- (e) Secondary dunes. The following restrictions and requirements apply to regulated activities in areas identified on coastal erosion hazard area maps as secondary dunes.
- (1) Secondary dunes must not be excavated, graded, or mined such that the erosion protection afforded by them is diminished.
 - (2) Clean sand obtained from excavation, dredging, or beach grading may be deposited on a secondary dune, or an area formerly a secondary dune, to increase its size or restore it. Such deposition must be vegetatively stabilized using native species

- tolerant to salt spray and sand burial, e.g. American beach grass. Such deposition requires a coastal erosion management permit.
- (3) The normal maintenance of structures may be undertaken without a coastal erosion management permit.
 - (4) The construction, modification, or restoration of a structure, or major addition to an existing structure, requires a coastal erosion management permit. Permit requirements include:
 - (i) a new structure, or the restoration of, or major addition to an existing structure, must be built on adequately anchored pilings such that at least three feet of open space exists between the lowest, horizontal structural members, e.g. floor joists, and the surface of the secondary dune; and
 - (ii) the space below the lowest horizontal structural members must be left open and free of obstructions.
 - (5) Exceptions.
 - (i) The provision in the preceding paragraph that requires obtaining an erosion area permit for the construction, modification, or restoration of a structure or major addition to an existing structure, does not apply to elevated walkways or stairways constructed solely for pedestrian use and built by or for an individual property owner for the limited purpose of providing non-commercial access to the beach; and
 - (ii) the restoration of existing structures that are damaged or destroyed by events not related to coastal flooding and erosion may be undertaken without a coastal erosion management permit.
 - (6) Non-major additions to existing structures are allowed on secondary dunes pursuant to a coastal erosion management permit.
 - (7) Vegetative planting and sand fencing, to stabilize or entrap sand to maintain or increase the height and width of dunes does not require a coastal erosion management permit. Vegetative plantings must be of native species tolerant to salt spray and sand burial such as American beach grass.

505.9 Erosion protection structures.

Construction of erosion protection structures is expensive, often only partially effective over time, and may even be harmful to adjacent or nearby properties. In some areas of the coastline, major erosion protection structures of great length would be required to effectively reduce future damages due to erosion. However, in those instances where properly designed and constructed erosion protection structures will be likely to minimize or prevent damage or destruction to man-made property, private and public property, natural protective features, and other natural resources, construction of erosion protection structures may be allowed. In such cases, the construction, modification, or restoration of erosion protection structures is subject to the following requirements.

- (a) A coastal erosion management permit is required for construction, modification, or restoration of erosion protection structures including the modification or restoration of erosion protection structures that were constructed without a coastal erosion management

permit. Normal maintenance of of an erosion protection structure does not require a coastal erosion management permit.

- (b) All erosion protection structures must be designed and constructed according to generally accepted engineering principles which have demonstrated success, or where sufficient data is not currently available, a likelihood of success, in controlling long-term erosion. The protective measures must have a reasonable probability of controlling erosion on the immediate site for at least 30 years.
- (c) A long-term maintenance program must be included with every permit application for construction, modification, or restoration of an erosion protection structure. That program must include specifications for normal maintenance of degradable materials and the periodic replacement of removable materials.
- (d) All materials used in such structures must be durable and capable of withstanding inundation, wave impacts, weathering, and other effects of storm conditions. Individual component materials may have a working life of less than 30 years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required 30 years of erosion protection.
- (e) The construction, modification, or restoration of erosion protection structures must:
 - (1) not be likely to cause any measurable increase in erosion at the development site or other locations; and
 - (2) minimize, and if possible prevent, adverse effects to natural protective features, existing erosion protection structures, and natural resources such as significant fish and wildlife habitats.

[Sections **505.10 - 505.22** of the Regulations contain procedures for Appeal of erosion hazard area designations, Emergency authorization, Bonds and financial security, Variances, Fees, and provisions for adoption of the program by local governments, and for amending Coastal Erosion Hazard Area maps.]