

## **Sea Pines Forest Preserve Foundation Beach Trust Property Policy**

The preservation of the dunes and beachfront areas located within the beach/dunes system existing in Sea Pines Plantation ("Sea Pines") is crucial for the preservation of real property values and for the continuance of Sea Pines' reputation as a premier residential resort community. The property that contains the beach dunes system is known as the "Beach Trust Property", and is owned by the Sea Pines Forest Preserve Foundation (the "Foundation"). The trustees of the Foundation (the "Trustees") have determined that it is necessary to create and enforce a policy governing the use of and access to the Beach Trust Property (the "Policy") in order to protect and preserve the Beach Trust Property.

As defined in the applicable covenants and restrictions governing Sea Pines (the "Covenants"), the Beach Trust Property consists of the land located between the seaward property line of any oceanfront lot in Sea Pines and the mean high watermark of the Atlantic Ocean or Calibogue Sound. The Trustees, as owner of the Beach Trust Property, have determined that it shall be treated as open space. Accordingly, the Beach Trust Property shall remain undeveloped and in a natural condition, free of homes, structures, and other trespasses. This Policy is intended to adhere to the Covenants and to protect the Beach Trust Property, while allowing Sea Pines property owners and guests the enjoyed use of property in Sea Pines.

Rights regarding the Beach Trust Property were assigned to Community Services Associates, Inc. ("CSA") as part of the finalization of the Hilton Head Holdings Company's bankruptcy. The settlement in 1999 of the Property Research Holdings, Inc. v. CSA lawsuit resulted in the transfer of ownership of the Beach Trust Property to the Foundation. CSA is the sole member of the Foundation.

The Office of Ocean and Coastal Resource Management ("OCRM"), which is part of the South Carolina Department of Health and Environmental Control ("DHEC"), and the Town of Hilton Head Island (the "Town") also have jurisdiction over activities and development within the Beach Trust Property. The Trustees have relied upon guidance of the OCRM and the Town in the creation and adoption of this Policy.

### **A. Beach Trust Property.**

The Trustees have adopted and hereby establish the following Policy, which shall govern the Beach Trust Property. Access to, and use of, the Beach Trust Property is subject at all times to the conditions specified below. Failure to comply with any of the specified conditions may result in the revocation of access to, and use of, the Beach Trust Property.

- (1) Encroachments onto the beach or dunes areas within the Beach Trust Property shall be prohibited, unless the Foundation or its authorized agent has provided its advance written approval. The Foundation reserves the right to remove or prevent any unapproved encroachments and to repair any resulting damage to the dunes, which removal and repair shall be at the applicable property owner's sole cost and expense.
- (2) Cutting, trimming, pruning or removal of beach or dunes vegetation within the Beach Trust Property shall be prohibited, unless the Foundation or its authorized agent has provided its advance written approval. Advanced written approval must also be obtained from the Town. The Foundation shall reserve the right to repair any damage to the Beach Trust Property resulting from unauthorized encroachments. The cost for such repair shall be at the property owner's expense.

- (3) No structure shall be installed or constructed within the Beach Trust Property except for that which the Foundation, or its authorized agent has provided its advance written approval. Additionally, all new or rebuilt dune crossings must extend to the seaward toe of the primary dune. Approved structures, such as dune crossings, shall adhere to the requirements of the OCRM, the Town and the Sea Pines Architectural Review Board (the "ARB"). A copy of the ARB Beach Trust Property Guidelines is attached hereto as Exhibit "A", and is incorporated herein as a part of this Policy. Final ARB approval of a proposed structure shall be contingent upon approval and issuance of an encroachment agreement by the Foundation or its authorized agent.
- (4) Structures currently existing within the Beach Trust Property and not otherwise approved as provided herein shall not be enlarged or rebuilt. Existing structures may receive routine maintenance, but any repair requires the Foundation's prior written approval. In the event that the existing structure is damaged, destroyed or allowed to deteriorate to such an extent that the Foundation, the OCRM, the Town or the ARB deems it to be a safety hazard or a danger to the integrity of the dune system, the structure shall be removed and shall not be rebuilt without the Foundation's or its authorized agent's advance approval and issuance of an encroachment agreement. The Foundation, in its sole judgment, shall determine when modifications to currently existing structures are required to maintain and preserve dune integrity. The Foundation shall reserve the right to halt any construction within the Beach Trust Property, to remove any and all structures located therein that are deemed to be a safety hazard or a danger to the integrity of the dune system and to repair any damage to the Beach Trust Property. The cost for such removal and repair shall be at the property owner's expense.
- (5) Signs other than those placed by governmental agencies or specifically approved in writing in advance by the Foundation are prohibited within the boundaries of the Beach Trust Property.
- (6) Gates are not permitted within the boundaries of the Beach Trust Property with the exception of those currently in existence. Existing gates within the Beach Trust Property shall not be repaired or replaced. In the event that the existing gate is destroyed or allowed to deteriorate to such an extent that the Foundation determines it to be a safety hazard, or unsightly, the gate shall be removed and shall not be rebuilt. This determination is made at the Foundation's sole judgement. The cost for such removal shall be at the property owner's expense.
- (7) No boat, watercraft, tent, umbrella, chair or object of any kind may be placed or stored in the Beach Trust Property unless specifically approved by the Foundation. Any unapproved boat, watercraft, tent, umbrella, chair or object of any kind placed or stored in the Beach Trust Property may be subject to immediate impoundment at the discretion of the Foundation or its authorized agent. The cost for such impoundment, storage and/or disposal shall be at the owner's expense.

The Foundation reserves the right to further adopt, amend or change any policies, regulations or rules at and upon its sole discretion.

**B. References.**

**SC CODE OF REGULATIONS CHAPTER 30 - Department of Health and Environmental Control—Coastal Division:**

**30-1.C. The Value of Beaches and Dunes:**

(3) In 1986, the Blue Ribbon Committee on Beachfront Management was formed in response to the growing recognition that existing law was inadequate to protect the fragile beach/dune resource. The Committee determined that the beach/dune system of the State was in a state of crisis. The report concluded that “over fifty-seven miles of our beaches are critically eroding. This erosion is threatening the continued existence of our beach/dune system and thereby threatening life, property, the tourist industry, vital State and local revenue, marine habitat, and a national treasure”. The 1988 Beachfront Management Act was enacted by the South Carolina General Assembly in response to the concerns presented in this report.

**30-21. Beachfront Management Plan:**

**C. Implementation of the Plan (A Summary of Measures to be Used to Implement the Beachfront Management Plan)**

(g) The plan's public access provisions and requirements to protect sand dunes will be furthered by exempting all walkways less than six feet in width from permit or notification requirements. It is hoped that this will encourage the construction of more walkways to the beach over healthy sand dunes.

**O. Sand Dune Management.**

(1) Walkways over dunes, as provided in §48-39-130(D), shall meet the following requirements:

- (a) All components must be constructed of wood;
- (b) Have a maximum width of six feet;
- (c) Conform with the contour of the dunes with a 2 foot vertical clearance between the surface of the dune and top of the walkway;
- (d) Displace no sand in a critical area;
- (e) Be constructed with as little environmental damage as possible;
- (f) Not be located within fifty feet of another walkway on the same parcel of property;
- (g) Be limited to no more than one of these structures per lot unless a limit of one would cause an unnecessary hardship as determined by the Department.
- (h) Be shore perpendicular, except as necessary for handicapped access.

(2) Projects to protect, restore, or build dunes shall conform to the following standards:

- (a) The use of natural beach vegetation to trap windblown sand is encouraged. Where pedestrian traffic has destroyed natural vegetation, the use of temporary sand fencing or its equivalent may be permitted.
- (b) The construction of a dune by using beach sand and mechanical equipment shall be permitted only for restoration after unusual damage, such as that caused by a hurricane.
- (c) Artificial dunes shall not be constructed seaward of the normal spring high-tide line.
- (d) Any artificially constructed dunes shall be aligned to the greatest extent possible with existing dune ridges and shall be of the same general configuration as adjacent dunes.

**Town of Hilton Head Island Beach Management Plan – Adopted July 18, 2017 – State Approved  
August 30, 2017:**

**4.1.2 Beachfront Setback Area**

. . . Restrictions on construction and reconstruction are established within the state setback area, and seaward of the baseline (§48-39-290). Generally, structures within the setback area are limited to 5,000 square feet of heated space; no new erosion control structures are permitted; and structures damaged beyond repair may only be replaced with structures of the original size and must be moved as far landward on the lot as possible. Development seaward of the baseline requires a special permit from DHEC-OCRM and is also subject to restrictions on size and erosion control structures. State regulations define the “beach/dune system” as “all land between the mean high-water mark of the Atlantic Ocean landward to the 40-year setback line” (R. 30-1(D)(5)). This is not an ecological definition of “beach/dune system” since the setback area, which in many cases is limited to a 20 foot-wide strip landward of the primary dune (baseline), often excludes adjacent, landward dune fields

**1966 "COVENANTS AND RESTRICTIONS AFFECTING OPEN SPACE AREAS":**

5. The Grantee ("Sea Pines Museum and Forest Preserve Foundation Beach Trust") shall have the right to protect from erosion the land described as Open Space Area by planting trees, plants, and shrubs where and to the extent necessary, or by such mechanical means as sea walls, bulk heading or other means deemed expedient or necessary by said grantee.

*[Signatures on following page(s)]*

## Exhibit "A"

### SEA PINES ARB BEACH TRUST PROPERTY GUIDELINES

12 MARCH 2019

\*No construction is permitted in the Trust Property except Approved structures for erosion control, such as dune crossings, which shall adhere to the requirements of the Office of Coastal Resources Management (OCRM), the Town of Hilton Head Island, and the Sea Pines Architectural Review Board (SPARB) and be permitted by formal encroachment agreement by the Sea Pines Forest Preserve Foundation.

A. Construction Plans, including a site plan and elevations as well as a completed application form and application fee of \$300.00 must be submitted to the SPARB for approval. The site must also be staked out, including string lines indicating the length and height of the walk as it crosses over the dunes.

B. Walkway Design Guidelines:

Allowable structures consist of a dune crossing which conforms to the following guidelines:

1. Must generally conform to the contours of the land and the dunes and have adjustable elevation capability to allow conformation with dune accretion.
2. Must be constructed to conform to OCRM guidelines for height above the dunes. Currently this height is a minimum of 24" from the top of the dune to the top of the surface of the walk. The top of the walk surface should be kept as low as possible.
3. Must not displace any sand in the critical area.
4. Must be constructed with as little environmental damage as possible.
5. Must be constructed of wood - CCA 2.1 pressure treated or better. All hardware galvanized or Stainless Steel.
6. Must not exceed four (4) feet in width except as necessary for safety or any other reason the ARB deems acceptable..
7. Decking should run parallel to the coastline and perpendicular to pedestrian traffic.
8. Steps: Steps should be kept to a minimum with grade changes being gradual and sharp angles softened with gentle curves to minimize the visual impact of the walk.
9. Benches and handrails are not permitted unless required by code or as necessary for safety and must be submitted to and the SPARB for approval. Design guideline for safety guardrails is attached to this document.

C. All dunes must remain intact and undisturbed by construction.

D. No Sea Oats or existing flora may be removed from dune area. The SPARB may require additional planting to screen the dune crossing from view of the beach or neighbors. The additional plants must consist of Sea Oats and indigenous plants. This is enforced by South Carolina Law.

- E. Authorization to build a dune crossing within the Trust Property carries the additional responsibility for the general appearance, cleanliness and repair and maintenance of the Trust Property in the vicinity of the dune crossing.
- F. Authorization to build a dune crossing within the Trust Property does not entitle the builder/Property Owner to exclusive use of the dune crossing which must be considered as an open beach amenity to be equally available for the use of all residents.

Note: The walkway specifications conform to South Carolina Office of Coastal Resources Management specifications. The SPARB reserves the right to allow exceptions from these design Guidelines providing it does not create conflict with the OCRM requirements.

“Structures currently existing within the Beach Trust Property and not otherwise approved as provided herein shall not be enlarged or rebuilt. Existing structures may receive routine maintenance, but any repair requires the Foundation’s prior written approval. In the event that the existing structure is damaged, destroyed or allowed to deteriorate to such an extent that the Foundation, the OCRM, the Town or the ARB deems it to be a safety hazard or a danger to the integrity of the dune system, the structure shall be removed and shall not be rebuilt. Sea Pines Forest Preserve Foundation reserves the right to remove any and all structures located therein that are deemed to be a safety hazard or a danger to the integrity of the dune system and to repair any damage to the Beach Trust Property. The cost for such removal and repair shall be at the property owner’s expense.”

This Policy has been approved and adopted by the Trustees this 2<sup>nd</sup> day of April, 2019.

Attested to by: [Signature] Its President

Attested to by: Michael Tucker Its Vice President

Attested to by: Coulym E Adams Its Secretary

Attested to by: [Signature] Its TREASURER

Attested to by: [Signature] Its MEMBER at-LARGE