

unincorporated areas of Galveston County subject to this Order, and the City of Galveston, Texas, and the City of the Village of Jamaica Beach, Texas for their respective incorporated areas on Galveston Island.

**D. Policy**

It is the policy of the Commissioners' Court of Galveston County that this Order will continue to undergo review, modification, and amendment to meet the changing requirements of the Texas Coastal Zone, the citizens of Galveston County, and other interests.

**E. Incorporation of State Law**

This Order incorporates the Dune Protection Act, the Open Beaches Act, and GLO Rules, 31 Tex. Admin. Code §§ 15.1 -15.10, 15.12, 15.21, and 15.35. Any person in violation of the incorporated laws is in violation of this Order.

**II. DUNE PROTECTION**

**A. Adoption, Compliance, and Modification**

1. This Order is adopted pursuant to the authority discussed in Section I(A) of this Order.
2. All persons, county officers, employees, and contractors shall comply with this Order, subject to the penalties described herein.
3. The County may amend this Order by submitting formally approved amendments to the GLO for review, comment, and certification as to compliance with the Dune Protection Act, the Open Beaches Act, and the Beach/Dune Rules.

**B. Areas Exempt**

1. This Order shall not apply within a state or national park area, wildlife refuge, or other designated state or national natural area.
2. In accordance with Section II(C) below, this Order shall not apply within the incorporated jurisdiction of the City of Galveston.
3. In accordance with Section II(C) below, this Order shall not apply within the incorporated jurisdiction of the Village of Jamaica Beach.
4. Fishing piers:
  - a. At the time of the adoption of this Order, there are two existing fishing piers on Bolivar Peninsula, known as "Meacom's Pier" and "Dirty Pelican Pier."
  - b. The fishing piers are leased directly from the State of Texas and are located on submerged land.
  - c. The State of Texas, through the General Land Office, is responsible for permitting of the fishing piers.
  - d. The County is not responsible for the permitting of the fishing piers under this Order as the fishing piers are located on submerged land and leased directly from the State of Texas. As such, the fishing piers are exempt from the requirements of this Order.
  - e. Fishing piers remain subject to the County Floodplain Regulations.

**C. Delegation of Authority**

1. Pursuant to Section 63.011 of the Texas Natural Resources Code, the County may allow a municipality located within the County to administer the Dune Protection Act within the municipality's corporate limits and extraterritorial jurisdiction.
2. City of Galveston – Pursuant to Section 63.011 of the Texas Natural Resources Code, authority to administer the Dune Protection Act and for the establishment of a city ordinance to regulate dune protection is hereby delegated to the City of Galveston for all incorporated areas of the City of Galveston.
3. City of the Village of Jamaica Beach – Pursuant to Section 63.011 of the Texas Natural Resources Code, authority to administer the Dune Protection Act and for the establishment of a city ordinance to regulate dune protection is hereby delegated to the City of the Village of Jamaica Beach for all incorporated areas of the City of the Village of Jamaica Beach.

D. Dune Protection Line

1. Authority. Pursuant to Texas Natural Resources Code § 63.011, the Commissioners' Court establishes the dune protection line for the purpose of preserving sand dunes within Galveston County within those areas in Galveston County subject to the authority of this Order.
2. Location of dune protection line.
  - a. The dune protection line on Bolivar Peninsula.
    - 1.) The metes and bounds descriptions supporting the points herein is attached hereto as Appendix 1.
    - 2.) The coordinates are NAD 83 (1993) Texas State Plane Coordinates, South Central Zone as referenced to NGS Monument "PETER" NGS PID AW 5786, with Grid Coordinates of X=3,329,317.03 (ft) Y=13,715,086.39 (ft) as per the NGS Data Sheet which is attached hereto as part of Appendix 1.
    - 3.) The dune protection line shall be located 200 feet landward of the line of vegetation beginning from a point on the Galveston County and Chambers County line and traveling southwesterly continuously thereafter along a line continuously 200 feet landward of the line of vegetation to a point near the southwest end of Bolivar Peninsula on Magnolia Lane, said point (TXSC N 13,721,753.72, E 3,336,333.29), being N 46°27'39" E, a distance of 9678.90 feet from said NGS Monument "PETER";  
 Thence, S 46°10'50" W, a distance of 427.94 feet (TXSC Coordinates N 13,721,457.42, E 3,336,024.52);  
 Thence N 38°45'00" W, a distance of 88.21 feet (TXSC Coordinates N 13,721,526.21, E 3,335,969.31);  
 Thence S 40°16'56" W, a distance of 3393.38 feet (TXSC Coordinates N 13,718,937.50, E 3,333,775.31);  
 Thence S 35°35'03" W, a distance of 2414.76 feet (TXSC Coordinates N 13,716,973.67, E 3,332,370.16);  
 Thence S 30°52'54" W, a distance of 879.31 feet (TXSC Coordinates N 13,716,219.02, E 3,331,918.84);  
 Thence S 39°34'31" W, a distance of 996.97 feet (TXSC Coordinates of N 13,715,450.57, E 3,331,283.68);

Thence S 0°07'47" W, a distance of 362.46 feet (TXSC Coordinates N 13,715,088.11, E 3,331,284.50);  
 Thence S 28°43'27" W, a distance of 232.67 feet (TXSC Coordinates N 13,714,884.07, E 3,331,172.68);  
 Thence S 28°52'36" W, a distance of 955.24 feet (TXSC Coordinates N 13,714,047.60, E 3,330,711.39);  
 Thence S 24°34'26" W, a distance of 2077.14 feet (TXSC Coordinates N 13,712,158.59, E 3,329,847.56);  
 Thence S 36°59'32" W, a distance of 457.33 feet (TXSC Coordinates N 13,711,793.31, E 3,329,572.38);  
 Thence S 7°15'14" W, a distance of 279.41 feet (TXSC Coordinates N 13,711,516.14, E 3,329,537.10);  
 Thence S 20°48'35" W, a distance of 1208.71 feet (TXSC Coordinates N 13,710,386.28, E 3,329,107.69);  
 Thence S 9°23'59" W, a distance of 1586.57 feet (TXSC Coordinates N 13,708,821.01, E 3,328,848.57);  
 Thence S 40°35'37" W, a distance of 3621.67 feet (TXSC Coordinates N 13,706,070.91, E 3,326,491.99) to a turning point on the dune protection line;  
 Thence N 53°00'22" W, a distance of 3823.12 feet (TXSC Coordinates N 13,708,371.39, E 3,323,438.46);  
 Thence S 54°14'32" W, along the said line 200 feet landward of the Southerly extent of Vegetation in the Gulf of Mexico, a distance of 2274.65 feet to a point in the Northerly extension of the centerline of the North Jetty with (TXSC Coordinates) of N 13,707,042.17, E 3,321,592.59 and being 45°20'43" W, a distance of 129.39 feet from a brass monument in the North end of the North Jetty and S 43°56'18" W, a distance of 11,152.42 feet from said NGS Monument "PETER".

- b. The dune protection line on Galveston Island subject to this Order. The dune protection line shall be located 200 feet landward of the line of vegetation within the Pirates Beach development from the west line of Pirates Beach Section 6 and traveling east thereafter continuously to the east line of Pirates Beach Section 7, which is the unincorporated area of Galveston Island subject to this Order.
  - c. Pursuant to the Dune Protection Act, the farthest landward that the County may establish the dune protection line is 1,000 feet from mean high tide. Accordingly, the dune protection line shall not exceed 1,000 feet landward of the line of mean high tide of the Gulf of Mexico. At the time of adoption of this Order, the Commissioners' Court finds that the dune protection line described herein does not exceed 1,000 feet landward of mean high tide for the areas of Galveston County for which the dune protection line is established. All critical dune areas shall be seaward of the dune protection line.
3. The written description of the dune protection line herein is filed with the County Clerk of Galveston County, Texas by the adoption and filing of this Order.
  4. Review - The County will review the location of the dune protection line at least once every five years to determine whether the line is adequately located to achieve its stated purposes.

5. Post Storm Review.
  - a. The County will review the adequacy of the location of the line within 90 days after a tropical storm or hurricane affects the portion of the coast in its jurisdiction. Following the review of the location of the dune protection line, the County will:
    - (1) inform the GLO of the occurrence of a tropical storm or hurricane and the results of the review of the adequacy of the dune protection line; and
    - (2) propose the length of time to allow for the natural reestablishment of beach, sand dunes, and through the assistance of the Land Office the line of vegetation, prior to modification of the dune protection line.
  - b. The County may amend this Order consistent with Section 15.3(o) of the Beach/Dune Rules to adjust the dune protection line whenever necessary to achieve its stated purposes. Any amendments to the dune protection line will conform to the requirements stated herein.
6. Amendment. Prior to acting on any amendment to this Order which would modify the line, the County must hold a public hearing to consider the modifications. Not less than one week nor more than three weeks before the date of the hearing, the Commissioners' Court must publish notice of the hearing at least three times in the newspaper with the largest circulation in the County and must notify the GLO in writing. The notice to the GLO must include a written description of the line.

E. Acts Prohibited Without a Coastal Construction Permit

1. Combined permit and certificate. An activity requiring a dune protection permit may typically also require a beachfront construction certificate and vice versa. To simplify the process, the County has combined the dune protection permit and the beachfront construction certificate into a single permit called a Coastal Construction Permit. Requirements for both beachfront construction certificates and dune protection permits, as applicable, must be complied with in order to obtain the single permit. In addition, if construction is occurring, the applicant will also be required to comply with the County Floodplain Regulations and/or Galveston County Subdivision Regulations, as applicable.
2. Unless a Coastal Construction Permit is properly issued by the County authorizing the conduct, no person shall:
  - a. damage, destroy, or remove a sand dune or a portion of a sand dune seaward of the dune protection line or within a critical dune area;
  - b. kill, destroy, or remove in any manner any vegetation growing on a sand dune seaward of the dune protection line or within a critical dune area;
  - c. place fill within the critical dune area, including the construction of dunes; or
  - d. cause, engage in, or allow construction on land adjacent to and landward of public beaches and lying in the area either up to the first public road generally parallel to the public beach or to any closer public road not parallel to the beach, or to within 1,000 feet of mean high tide, whichever is greater, that affects or may affect public access to and use of public beaches unless the construction is properly certified by the County as consistent with this Plan, the GLO Rules, the Open Beaches Act, and other applicable County orders.

F. Activities Exempt from Dune Protection Requirements

The following activities are exempt from the requirement for a dune protection permit, but are subject to the requirements of the Open Beaches Act and the rules promulgated under the Open Beaches Act. The activities are:

1. exploration for and production of oil and gas and reasonable and necessary activities directly related to such exploration and production, including construction and maintenance of production and gathering facilities located in a critical dune area which serve wells located outside the critical dune area, provided that such facilities are located no farther than two miles from the well being served;
2. grazing livestock and reasonable and necessary activities directly related to grazing; and
3. recreational activities other than operation of a recreational vehicle.

G. Pre-Application Process – Threshold Determination of Need for Coastal Construction Permit

1. Submissions by potential applicants - Potential applicants may submit adequate descriptions of the proposed construction activity to the County Building Official in the office of County Engineer at 123 Rosenberg, Suite 4157, Galveston, Texas 77550 for a threshold determination of whether or not a Coastal Construction Permit is required.
  - a. Initial information provided should include:
    - (1) a clear depiction of the location of the property in question on:
      - (a) a plat of the subdivision in which the permit is being applied for, or
      - (b) an aerial photograph of no more than two years previous to the application date. Following a major hurricane or tropical storm, aerial photographs taken following the hurricane or storm will be required.
    - (2) a clear delineation of the proposed construction either on attached plans or on the plat or aerial photograph.
  - b. Additional information: Upon determination of the Building Official that additional information is necessary to determine if the subject property is seaward of the dune protection line, the potential applicant must provide a survey of the location in relation to the dune protection line and the line of vegetation, referenced to the state plane coordinate system.
  - c. If the potential applicant seeks to establish that no permit is required, the description shall demonstrate that the proposed construction will not adversely affect dunes or public beach use and access. The description must show that the proposed construction will be landward of public beaches and lying in the area either up to the first public road generally parallel to the beach or to any closer public road not parallel to the beach, or 1,000 feet of mean high tide, whichever is greater, that affects or may affect public access to and use of public beaches.
2. Internal Review - The Building Official has five (5) working days to review the information and reply to the applicant with a determination as to whether the proposed construction will require a Coastal Construction Permit. The Building Official will send notice of any proposed determination that the construction activity does not require a permit to the GLO for review.
3. Notification of Applicant - Upon notification from the Building Official that a Coastal Construction Permit is required, the applicant shall then submit a complete application.
4. Application Submission - Persons desiring to conduct activities other than construction which alter the dunes that are within the dune protection line shall submit an application

for a Coastal Construction Permit to the Building Official in the office of the County Engineer of Galveston County.

#### H. Application Process

1. Review - The Building Official will review the application to determine:
  - a. if all components of the application have been received; and
  - b. if the proposed activity complies with this Order.
2. Report - The Building Official will compile a report which, at a minimum, contains the Building Official's opinion of the following items:
  - a. whether the proposed activity is a prohibited activity;
  - b. whether the proposed activity will materially weaken dunes or materially damage dune vegetation seaward of the dune protection line based on substantive findings;
  - c. whether there are practicable alternatives to the proposed activity and adverse effects can be avoided;
  - d. whether the applicant's mitigation plan will adequately minimize, mitigate, and/or compensate for any unavoidable adverse effects; and
  - e. an affirmative finding that the proposed activity is consistent with this Order or an affirmative finding that the proposed activity is inconsistent with this Order.
3. Changes in the Application
  - a. If the applicant proposes changes to the application during the review process, the applicant shall notify the Building Official at the office of the County Engineer.
  - b. Additionally, the applicant shall submit to the Building Official a modified application, consistent with the applicant's proposed changes.
  - c. The applicant shall be the sole binding proponent of amendments to any application under consideration.
4. General Land Office Review  
Upon compilation of the report, the Building Official will forward the following information to the Commissioner of the GLO:
  - a. the final application, as the Building Official will consider it;
  - b. a copy of the community's most recent flood insurance rate map identifying the site of the proposed construction;
  - c. a preliminary determination as to whether the proposed construction complies with all aspects of this Order;
  - d. the activity's potential impact on the community's natural flood protection and protection from storm surge;
  - e. a description as to how the proposed beachfront construction complies with and promotes the County's beach access policies and requirements, particularly this Order's provisions relating to public beach ingress/egress, off-beach parking, and avoidance of reduction in the size of public beach due to erosion;
  - f. copies of aerial photographs of the proposed construction site with a delineation of the footprint of the proposed construction, if the County has aerial photographs of the area in which the construction is proposed; and
  - g. a request for timely comment on the application.

#### I. Fees

1. At the time of this Order, the County does not charge a fee for the Coastal Construction Permit; however, fees are charged for other permits which may be required in addition to a Coastal Construction Permit, such as a Building Permit.
2. Permit fees collected are credited to the general operation funds of Galveston County.

J. Classification of Permit. Application requirements are determined by permit classification:

1. Class 1 permit needed for any construction in an area from the dune protection line to and through 1000 feet landward of mean high tide that affects or may affect beach access.
2. Class 2 permit needed for any construction in an area from the dune protection line to the vegetation line and for dune walkovers whose seaward terminus may be seaward of the line of vegetation. Dune walkovers are also subject to the requirements of Sections III(G) and/or III(I) of this Order, as applicable.

K. Application Contents. The County requires that all applicants fully disclose in the application all items and information necessary for the County to make a determination regarding a permit. The County requires that applicants for Coastal Construction Permits provide, at a minimum, three copies of the following items and information for each class of permit:

1. Large and Small-Scale Construction Class 1:
  - a. the name, address, phone number, and, if applicable, fax number of the applicant;
  - b. the name, address, phone number, and if applicable, fax number of the owner and of the contractor, if different than the applicant;
  - c. a complete legal description of the tract and a statement of its size in acres or square feet;
  - d. plot plan, showing the existing and proposed structure(s) on the property;
  - e. plans must include the floor plan, front and side view of the structure to be constructed or expanded;
  - f. the physical address of the structure;
  - g. a copy of the community's most recent flood insurance rate map identifying the site of the proposed construction;
  - h. any permit fees required by section II(I) of this Order;
  - i. a statement by the applicant, owner, or contractor that the applicant, contractor, or owner, as applicable, will be responsible for the safe and proper removal of waste generated by the construction.
2. Large and Small-scale Construction Class 2:
  - a. the name, address, phone number, and, if applicable, fax number of the applicant;
  - b. the name, address, phone number, and if applicable, fax number of the owner and of the contractor, if different than the applicant;
  - c. a complete legal description of the tract and a statement of its size in acres or square feet;
  - d. plot plan, showing the existing and new structure on the property;
  - e. plans must include the floor plan, front and side view of the structure to be constructed or expanded;
  - f. the physical address of the structure;
  - g. a copy of the community's most recent flood insurance rate map identifying the site of the proposed construction;

- h. any permit fees required by section II(I) of this Order;
  - i. a statement by the applicant, owner, or contractor that the applicant, contractor, or owner, as applicable, will be responsible for the safe and proper removal of waste generated by the construction;
  - j. photographs of the site which clearly show the current location of the vegetation line and the existing dunes on the tract which are seaward of the dune protection line and the photographs should be dated to show when they were taken;
  - k. copies of aerial photographs of the proposed construction site;
  - l. the number of proposed structures and whether the structures are amenities or habitable structures;
  - m. the number of parking spaces;
  - n. the approximate percentage of existing and finished open spaces (those areas completely free of structures);
  - o. the approximate duration of the construction;
  - p. a description (including location) of any existing or proposed structures;
  - q. an accurate map, site plan, or plat of the site identifying:
    - (1) the site by its legal description, including, where applicable, the subdivision, block, and lot;
    - (2) the location of the property lines and a notation of the legal description of adjoining tracts;
    - (3) the location of the dune protection line, the line of vegetation, proposed and existing structures, and the size of the project area (in acres or square feet) of the proposed construction (building footprint) on the tract;
    - (4) proposed roadways and driveways and proposed landscaping activities on the tract;
    - (5) the location of any seawalls or erosion response structures on the tract and on the properties immediately adjacent to the tract and within 100 feet of the common property line;
    - (6) if known, the location and extent of any man-made vegetated mounds, restored dunes, fill activities, or any other pre-existing human modifications on the tract;
    - (7) proposed landscaping activities within 200 feet of the line of vegetation;
    - (8) the distance between the proposed construction and mean high tide, the vegetation line, the dune protection line, and the landward limit of the beachfront construction area.
3. Large Scale Construction. All applicants for large scale construction, in addition to applicable Class permit requirements specified in this Section K, submit the following:
- a. if the tract is located in a subdivision and the applicant is the owner or developer of the subdivision, a certified copy of the recorded plat of the subdivision, or, if not a recorded subdivision, a plat of the subdivision certified by a licensed surveyor (if the area is located within an un-platted tract, a survey will suffice) and a statement of the total area of the subdivision in acres or square feet;
  - b. in the case of multiple-unit dwellings, the number of units proposed;
  - c. alternatives to the proposed location of construction on the tract or to the proposed methods of construction which would cause fewer or no adverse effects on dunes and dune vegetation or less impairment of beach access; and

- d. the proposed activity's impact on the natural drainage pattern of the site and the adjacent lots.

L. Special Standards for Eroding Areas

1. Authority: 31 TAC § 15.6 requires the County to comply with the standards for eroding areas when issuing, denying, or conditioning a Coastal Construction Permit.
2. The special standards are as follows:
  - a. Structures located on property adjacent to the public beach must be designed for feasible relocation (i.e., on piers).
  - b. Paving or altering the grade below the lowest habitable floor is prohibited in the area between the line of vegetation and 25 feet from the landward toe of the back dune.
  - c. Paving used under the habitable structure and for a driveway connecting the habitable structure and the street is limited to the use of unreinforced fibercrete in maximum of 4 foot x 4 foot sections, which shall be a maximum of four inches thick with sections separated by expansion joists or pervious materials approved by the County Building Official, in that area 25 feet from the landward toe of the back dune to 200-foot landward of the line of vegetation.
  - d. The County shall assess a "Fibercrete Maintenance fee" of \$200.00 to be used to pay for the clean-up of fibercrete from the public beaches should the need arise;
  - e. Reinforced concrete may be used in that area landward of 200-feet from the line of vegetation to alter or pave only the ground within the footprint of the habitable structure.
  - f. Financial assurance is required to fund eventual relocation or demolition and removal of the proposed structure and financial assurance may be provided in the form of an irrevocable letter of credit, performance bond, or other instrument acceptable to the County.
  - g. Structures built in eroding areas must be elevated in accordance with FEMA minimum standards or above the natural elevation (whichever is greater).
3. Please see Section III(A)(2)(i) of this Order for further requirements on the use of slabs.

M. Master Planned Developments

1. The County may adopt separate County Commissioners' Court orders authorizing master planned developments located within the geographic scope of the GLO Rules. These orders must be consistent with and address the dune protection and beach access requirements of the GLO Rules, Dune Protection Act and Open Beaches Act. The orders will be submitted to the GLO for review and approval to ensure consistency with the GLO Rules at least thirty (30) days prior to acting on a request for approval. When considering approval of a master planned development or construction plans and setting conditions for operations under such plans, the County will consider:
  - a. the development's potential effects on dunes, dune vegetation, public beach use and access, and the applicant's proposal to mitigate for such effects throughout the construction;
  - b. the contents of the master planned development; and

- c. whether any component of the development, such as installation of roads or utilities, or construction of structures in critical dune areas or seaward of a dune protection line, will subsequently require a Coastal Construction Permit;
  - d. if a Coastal Construction Permit will be necessary, the County will require the developer to apply for the permit as part of the master planned development approval process; and
  - e. the allocation of responsibilities for complying with the terms of the master plan. This includes, but is not limited to construction and maintenance of mitigation, and liability for violations of the terms of the master plan order.
2. If the County Building Official determines that all development contemplated by the master plan complies with all requirements of this Order, a permit for the development may be issued after receiving approval from the GLO; provided however that approval may be issued without receiving approval from the GLO if at least thirty (30) days have expired since the GLO's receipt of the application and the GLO has not submitted comments on the application or request for extension of time.
  3. If the County Building Official determines that any development contemplated by the plan does not comply with the requirements of this Order and for that reason cannot be approved without an amendment to this Order, the County Building Official will not issue a permit, but may submit the plan to the GLO for consideration as an amendment to this Order pursuant to Section 15.3(o) of the Beach/Dune Rules.

N. Variances from Federal Requirements

The Building Official will inform the GLO and FEMA Region 6 before the County issues any variance from FEMA's regulations found in Volume 44 of the Code of Federal Regulations, Parts 59-77.

**III. REQUIREMENTS FOR ISSUANCE OF COASTAL CONSTRUCTION PERMITS**

A. Issuance or Denial of Permit

1. Data Considered - To determine whether to issue or deny a permit, the County will review and consider:
  - a. the information in the permit application;
  - b. the recommendations and findings of the Building Official;
  - c. the proposed activity's consistency with the GLO Rules and this Order, including the dune protection and beachfront construction standards contained in both;
  - d. any other law relevant to dune protection and public beach use and access which affects the activity under review;
  - e. the comments of the GLO. The County shall not act on a permit application if the GLO have not received the application at least ten working days before the County is first scheduled to act on the permit. However, the County may act on the permit if the GLO received the application at least ten working days before the County is scheduled to act and the state agencies have not submitted comments. Thereafter, the permit may be issued or denied regardless of whether the state agencies submit comment on the application. If the state agency comments on the application, the receiving County authority must forward copies of the comments to the Building Official;