

## SUMMARY OF REQUIREMENTS OF BOLIVAR PENINSULA BEACH VENDING PERMIT POLICY

This is a summary only and does not contain all the information that a potential vendor should be informed of prior to submitting an application. Application packets must be requested from Galveston County Parks & Cultural Services Department, 4102 Main Street (FM 519), La Marque, Texas 77568 / (409) 934-8100.

1. The Commissioners' Court assigned responsibility for implementing the rules and administering the permit process to the Galveston County Parks & Cultural Services Department. Permit application packets will be evaluated for compliance with these rules, and permits will be issued under these rules, without the individual applications or permits being subject to Park Board or Commissioners' Court approval.
2. The maximum length of time for a permit allowed by law is 2 years. A vending period begins March 1 of each even-numbered year and expires the last day of February of the subsequent even-numbered year.
3. The Bolivar Peninsula beaches are divided into three geographical zones with two different permit fee rates. The County has established a maximum number of permits for each zone. Yearly fees are required to be paid from the effective date of the permit (March 1<sup>st</sup>) through September for each year of the vending period.
  - a. Crystal Beach Zone – Permits available: 10, Fee: \$700/year.
  - b. North Beach Zone – Permits available: 8, Fee: \$350/year.
  - c. South Beach Zone – Permits available: 8, Fee: \$350/year.
4. The categories of permits within the 3 zones are:
  - a. food and drink sales;
  - b. sale of novelties, souvenirs, and other non-food items;
  - c. jet ski rentals; and
  - d. any other category established after review of the pool of permit applications for the upcoming or current vending period.
5. A permit to lease the occupancy of portable toilets or to sell or lease only surfboards is not limited as to the territory over which the business establishment may operate.
6. The following information is required on the application form:
  - a. a completed application.
  - b. proof of current vehicle liability insurance and current general liability insurance, showing Galveston County, Galveston County Commissioners' Court and the Galveston County Department of Parks & Cultural Services as additional insureds, in the minimum amounts of \$100,000 per injury, \$300,000 per occurrence, and \$100,000 property damage, and valid for the entire vending period;
  - c. a current Galveston County health certificate, if food or drink products are to be sold;
  - d. two recent color photographs of the vehicle or structure to be used for the vending business establishment, showing the driver's side, the passenger's side, and the license plate number of any vehicle and the front and back of any structure;
  - e. the applicant's sales tax number;
  - f. a County building permit, as required for enclosed trailers or other structures;
  - g. a copy of the applicant's assumed name certificate, if required under Chapter 36, Business & Commerce Code; and
  - h. the application fee of \$100 for each application.
7. Other conditions apply and are noted in the policy itself. Each applicant is responsible for being familiar with that information prior to applying.

**1. Introduction**

- 1.1. These rules established a system for the issuance of beach vending permits which authorize a permittee to sell or lease a commodity on public beaches that are not within the boundaries of a state park or an incorporated city. Permit procedures, fees, and requirements are specified in these rules.

**2. Statutory Authority**

- 2.1 These rules are adopted by the Commissioners' Court under the authority of Subchapter E, Chapter 61, and Texas Natural Resources Code.

**3. Considerations in Exercising Authority**

- 3.1 These rules are adopted and are to be administered in accordance with the legislative considerations set forth in Section 61.174, Natural Resources Code, that:

- 3.1.1. The number of mobile business establishments receiving permits from the County should not constitute a substantial interference with the free and unrestricted rights of ingress and egress of the public to public beaches;
- 3.1.2. The number of permits issued by the County are sufficient to ensure free and unrestricted competition in selling or leasing of commodities to the public; and
- 3.1.3. No person should be allowed to operate any mobile business establishment on any public beach in restraint of trade or competition by which the person controls all or substantially all of the business establishments on the public beach that have been issued permits by the County.

- 3.2. Section 61.169 of the Natural Resources Code prohibits the County from issuing permits for business establishments located at a fixed or permanent location on a public beach. All business establishments must be mobile.

**4. Definitions**

- 4.1. In these rules:
  - 4.1.1. "Beach vending permit" or "permit" means a permit issued under these rules.
  - 4.1.2. "Business establishment" means any structure or vehicle where any commodity, including memberships in any private club or similar organization, is offered to the public for sale or lease, but does not include any structure or vehicle where only services are offered to the public for sale.
  - 4.1.3. "Commissioners' Court" means the Galveston County Commissioners' Court.
  - 4.1.4. "County" means Galveston County, Texas.
  - 4.1.5. "Department" means the Galveston County Parks & Cultural Services Department.
  - 4.1.6. "Eligible application" means an application certified by the Director to comply with the requirements of Section 12.1.

- 4.1.7. “Director” means the Director of the Parks & Cultural Services Department.
- 4.1.8. “Mobile” means vehicular in nature, on wheels, or of such nature that it is capable of moving or being moved for set-up after sunrise and removal from the beach area at sunset each day.
- 4.1.9. “Novelty” means a small manufactured article intended mainly for personal or household adornment.
- 4.1.10. “Permittee” means a person who is granted a beach vending permit to operate a business establishment on a public beach under these rules.
- 4.1.11. “Public beach” has the meaning assigned by Section 61.001, Natural Resources Code.
- 4.1.12. “Sale or lease” or “sell or lease” includes offering any commodity in exchange for a price or other donation.
- 4.1.13. “Vending” means offering to sell or lease a commodity to the public from a business establishment.
- 4.1.14. “Vending period” means the two-year period beginning March 1 and ending the last day of February in the second following calendar year.
- 4.1.15. “Vendor” means a person who sells or leases commodities on a public beach from a business establishment.
- 4.1.16. “Zone” means one of the three Bolivar Peninsula beach zones designated by Section 6.1 of these rules.
- 4.1.17. “Zoned category” means one of the categories of operation described by Section 7.1 for which the permit is restricted to a designated zone.
- 4.1.18. “Zoned permit” means a beach vending permit other than a permit described by Sections 7.1 or 7.2 that is restricted to operations in a designated zone.

**5. Commissioners’ Court, Beach & Parks Department, Director**

- 5.1. The Commissioners’ Court assigns responsibility for implementing these rules and administering the permit process to the Parks Department, its Director, and its staff. Permit application packets may be evaluated for compliance with these rules, and permits may be issued by the Director under these rules, without the individual applications or permits being subject to Commissioners’ Court approval.
- 5.2. The Director may establish additional rules, procedures, and conditions necessary or appropriate to carry out the purposes of these rules.
- 5.3. The Department may make recommendations to the Commissioners’ Court regarding implementing or amending these rules.
- 5.4. The Commissioners’ Court retains oversight authority over the beach vending permit policy evidenced by these rules and the administration of the permit process.

**6. Maximum Territorial Limits, Bolivar Peninsula Beach Zones**

- 6.1. Except for permits described by Sections 7.2 or 7.3, each permit issued shall be limited to one of three zones, which three zones together comprise the public beaches on the Bolivar Peninsula, in Galveston County, Texas, not within the boundaries of a state park or an incorporated city. The three zones and their boundaries are the:
  - 6.1.1. Crystal Beach Zone, bounded on the southwest by an imaginary line drawn by projecting the center line of Alma Street to the Gulf of Mexico, and bounded on the northeast by an imaginary line drawn by projecting the centerline of Gulf Shores to the Gulf of Mexico; (Barrel 51 ½ - 75 ½)
  - 6.1.2. North Beach zone, bounded on the southwest by an imaginary line drawn by projecting the center line of Gulf Shores to the Gulf of Mexico, and bounded on the northeast by the Chambers County line, which is marked by a county sign; ( Barrel 75 ½ - County Line ) and
  - 6.1.3. South Beach zone, bounded on the northeast by an imaginary line drawn by projecting the center line of Alma Street to the Gulf of Mexico, and bounded on the southwest by the Texas Department of Transportation Highway 87 ferry landing. ( Barrel B1- 51 ½ )

**7. Permit Categories, Prohibited Activities**

- 7.1. The categories for zoned permits, which do not include the surfboard or portable toilet categories described in Sections 7.2 and 7.3, are:
  - 7.1.1. food and non-alcoholic beverage sales including ice sales;
  - 7.1.2. sale of novelties, souvenirs, and other non-food or non-alcoholic beverage items;
  - 7.1.3. jet ski rentals; and
  - 7.1.4. any other category established by the Director after review of the pool of permit applications for the upcoming or current vending period.
- 7.2. Pursuant to Section 61.173(b), Natural Resources Code, a permit to sell or lease only surfboards and related equipment may not be limited as to the territory over which the business establishment may operate. Related equipment for surfboards is as follows, Paddles, Paddle Boards, Skim Boards, Kayaks, Boogie Boards, Floats, Flippers, Water Bikes, and Water Trikes.
- 7.3. A permit to lease the occupancy of portable toilets is not limited as to the territory over which the business establishment may operate. A permit will not be issued for a business establishment that operates more than nine portable toilets.
- 7.4. Prohibited Categories
  - 7.4.1. Alcohol—According to the Texas Alcoholic Beverage Commission (TABC), generally, licenses will not be approved for mobile business establishments. Therefore, the County will not issue permits to sell alcoholic beverages through the beach vending program.

- 7.4.2. Firearms, Ammunitions, and Explosives—According to the Bureau of Alcohol, Tobacco, and Firearms (BATF), permits for the sale of firearms, ammunition, or explosives will not be approved for mobile business establishments. Therefore, the County will not issue permits to sell firearms, ammunition, or explosives through the beach vending program.

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- 7.4.3. Fireworks (pyrotechnic devices)—According to the Texas State Fire Marshal, permits for the sale of fireworks will not be approved for mobile business establishments. Therefore, the County will not issue permits to sell fireworks through the beach vending program.

**8. Maximum Number of Zoned Permits, Allocation of Zoned Permits Among Categories.**

- 8.1. The total number of zoned permits that may be issued at the beginning of a vending period or that may be in effect at any time during the vending period is limited to a maximum of:
- 8.1.1. 10 permits for the Crystal Beach zone;
  - 8.1.2. 8 permits for the North Beach zone; and
  - 8.1.3. 8 permits for the South Beach zone.
- 8.2. The maximum total number of permits for a zone shall be allocated among the zoned categories in the same proportion that the number of eligible applications received in that zoned category for that zone bears to the total number of eligible applications received by that vending period's application deadline for that zone, with each zoned category that received at least one eligible application being allocated at least one permit.
- 8.3. The Director shall perform the initial allocation for a vending period after the application deadline and before permits are issued for that vending period. The Director may adjust the allocation as required during the vending period to reflect the interest in categories for replacement permits.
- 8.4. A maximum of one permit per zone may be issued to any individual or entity, regardless of category.
- 8.5. No preference or other consideration will be given with regard to status as a previous or current permit holder or any other status.

**9. Term of Permit, Vending Period**

- 9.1. A permit is valid for one two-year vending period or the remaining term of the vending period, if issued after the beginning of the vending period. A vending period begins March 1 of each even-numbered year and expires the last day of February of the subsequent even-numbered year.

**10. Application For Permit, Payment By Cashier's Check or Money Order**

- 10.1. An applicant for a beach vending permit must complete and submit a complete application packet. The deadline for submission of the application packet is January 1 of each even-numbered year that occurs before the March 1 commencement date of the vending period. The application packet must include:
- 10.1.1. a completed application, on a form as prescribed by the Director, that provides:
    - (a) the name and street address of the applicant;
    - (b) the commodity to be sold or leased;

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- (c) the zone in which the business establishment is applying to operate, if the application is for a zoned category;
  - (d) personal history information;
  - (e) financial history of the proposed business; and
  - (f) business references;
- (2) proof of current vehicle liability insurance and current general liability insurance, showing Galveston County, the Galveston County Commissioners Court, and the Galveston County Parks & Cultural Services Department as additional insured, in the minimum amounts of \$100,000 per injury, \$300,000 per occurrence, and \$100,000 property damage. Insurance must be valid for the entire vending period;
  - (3) a current Galveston County health certificate, if food or drink products are to be sold;
  - (4) two recent color photographs of the vehicle or structure to be used for the vending business establishment, showing the driver's side, the passenger's side, and the license plate number of any vehicle and the front and back of any structure;
  - (5) the applicant's sales tax number;
  - (6) a County building permit, as required for enclosed trailers or other structures;
  - (7) a copy of the applicant's assumed name certificate, if required under Chapter 36, Business & Commerce Code; and
  - (8) the appropriate application fee.
  - (9) any other certificates, permits, or licenses required for the sales of a specific product.
- 10.2 The application packet should be submitted to:

Galveston County Parks Department  
PO Box 1679  
Crystal Beach, TX 77650  
Attn: Bolivar Beach Sticker Supervisor  
(409) 934-8103

- 10.3 A cashier's check or money order for a filing fee is to be made payable to "Galveston County". The County discourages payments made in cash.

**11. Application Filing Fees**

- 11.1. The filing fee for each separate permit application \$100.00.
- 11.2. In addition to the filing fee, a permittee must pay a yearly operating fee as required by Section 13.

- 11.3. If an application for a permit is not granted, the Department shall return the filing fee to the applicant.

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- 11.4. The filing fee and the yearly operating fee may be used by the County to pay the expenses of carrying out the provisions of Subchapter E, Chapter 61, Natural Resources Code.
- 11.5. An applicant must submit a separate application packet and application fee for each permit it seeks in each zone in which it seeks to operate. A permit is only valid for a single business establishment as described in the application packet. An applicant is not eligible for more than one zoned permit per zone.
- 11.6. If an applicant applies for and is approved to receive two or three permits for identical categories in different zones, the applicant may choose which zone or zones it prefers for its business and waive all but one of the permits approved for issuance to the applicant. The waiver must be in writing and delivered to the Director not later than the 5<sup>th</sup> day after the date the applicant receives notice that its multiple applications have been approved. The filing fee for an application that was approved but waived by the applicant in accordance with this section shall be returned to the applicant.

## **12. Eligibility For Permit Approval And Award, Waiting List**

- 12.1. The Director shall certify an application as eligible for issuance of a permit, subject to the limitations on the maximum number of permits that may be issued and the allocation among categories under Section 8, if the Director finds that:
- 12.1.1. the applicant has complied with the requirements of these rules;
- 12.1.2. issuance of the applicant's permit would be consistent with recreational needs and the public welfare; and
- 12.1.3. the applicant's business establishment would not create a traffic or safety hazard.
- 12.2. If the number of eligible applicants for one category of permits for a zone exceeds the number of zoned permits allocated for issuance in that category, the Director shall select the applicants to be issued zoned permits in that zoned category by drawing lots.
- 12.3. If lots are drawn, the names of the applicants with eligible applications not selected in the drawing shall be placed by the Director on a waiting list for that category and zone. If more than one unselected applicant exists for a category and zone, the order of priority on the waiting list shall be determined by drawing lots. Names of other parties expressing an interest in that category and zone may be added to the waiting list during the vending period in the order in which the names are received by the Director. If a replacement permit is to be issued under Section 14 for that category and zone, priority shall be given to the parties named on the waiting list, in the order in which their names appear on the list. A party on the waiting list who fails to respond to a request to submit a complete application packet within two weeks of being notified that a replacement permit is to be issued may be removed from the waiting list.
- 12.4. Preferences shall not be given to any applicant based on status as a previous or current permit holder or any other status.

### 13. Monthly Operating Fee

13.1. A permittee must pay a yearly operating fee to the Department from the effective date of the permit through September for each year of the vending period, regardless of what month the permittee actually begins operations. The amount of the yearly operating fee is:

13.1.1. \$700.00 for a permit for the Crystal Beach zone;

13.1.2. \$350.00 for a permit for the North Beach or South Beach zones;

13.1.3. \$700.00 for a permit for surfboard sale or rentals; and

13.1.4. \$350.00 for a permit for portable toilets.

13.2. The yearly operating fee is due on the effective date of the permit. A permittee whose zoned permit is revoked is not entitled to a refund of previously paid yearly operating fee or application fee.

### 14. Replacement Permit for Zoned Categories

14.1. A replacement permit in a zoned category may be issued for a specific zone if during the vending period the Director revokes a permit in that category for that zone.

14.2. An applicant for a replacement permit to be issued during the vending period is not subject to the January 1 application deadline. An applicant awarded a replacement permit is not required to pay the yearly operating fee for dates occurring in the vending period prior to the effective date of the replacement permit. The applicant will instead incur a prorated operating fee which is due on the effective date of the permit through September. A replacement permit is valid for the remaining term of the current vending period.

### 15. Amendment of Permit

15.1. Permits may not be amended once they are issued. A Permittee wishing to amend his/her permit must submit a new application form, as well as a cashier's check or money order in the amount of \$100.00 as an application fee. A permittee will not be issued a new permit if there is a waiting list for the proposed category and zone.

### 16. Revocation of Permit

16.1. Except as provided by Section 16.3, the failure or refusal of a permittee to comply with the terms and conditions stated on the face of a permit or in these rules shall operate as an immediate termination and revocation of all rights conferred in or claimed under the permit.

16.2. The termination or revocation of a permit is not effective until notice is delivered by mail to the address of the permittee listed on the application for the permit, as required by Section 61.172, Natural Resources Code.

16.4. A permittee whose permit is revoked is not entitled to a refund of any previously paid yearly operating fees or application fees.

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## **17. General Conditions**

- 17.1. Permits will not be issued for fixed or permanent business establishments.
- 17.2. Business may be conducted ONLY from mobile business establishments and only upon the area of public beach within the jurisdiction of the County from the line of mean low tide to the natural vegetation line on Bolivar Peninsula and within the boundaries of Galveston County. Subject to the restrictions of the permit the permittee is operating under and the restrictions of Section 17.12. and 18.3., each permittee is entitled to daily select the location of its mobile business establishment on a first come, first served basis. All permit holders must remove all materials, facilities, and vehicles used in conjunction with their operations at sunset each day and will be permitted to set up again after sunrise the following day.
- 17.3. A mobile business establishment may not block any access road to the beach.
- 17.4. A mobile business establishment may not locate on or, in the case of a mobile business using a moving vehicle, stop for business transactions in such a manner as to block established linear traffic routes upon the beach in a generally northeast/southwest direction.
- 17.5. Permit holders, with the exception of surf board and Jet Ski rentals, must limit the amount of space used by their operation to a maximum radius of five feet beyond the vehicle or structure from which they are operating. Surf board and Jet Ski rental permit holders must limit the amount of space used by their operation to a maximum radius of 20 feet beyond the vehicle or structure from which they are operating.
- 17.6. A vendor must abide by all laws and regulations of the United States of America, the State of Texas, the Texas Parks and Wildlife Department, and the County of Galveston.
- 17.7. A vendor may operate only the type of business described in its permit.
- 17.8. A vendor must provide garbage receptacles for any refuse generated as a result of its beach vending activities and by members of the public who purchase or lease from the vendor. A garbage receptacle must be located within 20 feet of the business establishment. A vendor is responsible for daily removal of garbage it or its customers generate. Removal may be satisfied by removing garbage from each location at which the vendor operates by the vendor: (1) removing the garbage from the Bolivar Peninsula public beach area; (2) disposing of the garbage at Peninsula Waste Management on Noble Carl Road in Crystal Beach; or (3) contracting with a licensed waste removal company. On request the permittee must show proof of a contract with a licensed waste removal company or file a report of its garbage removal procedures.
- 17.9. A vendor must mark on or otherwise identify its licensed mobile business establishment with the permittee's company name or assumed name, as listed in its application. The name must be plainly visible to the public from at least two sides of the mobile business establishment. A mobile business establishment may not have any detached signs. All advertising and identification signs must be permanently attached to or painted on the mobile business establishment as described in the application packet.
- 17.10. A vendor must prominently display its permit so that it is plainly visible to the public from at least one side of the mobile business establishment.
- 17.11. A vendor may not conduct business between the hours of sunset and sunrise, unless different

hours of operation are specifically approved in the vendor's permit. Please also refer to section 17.1.

- 17.12. A vendor may not sell or distribute glass containers or any commodity in a glass container.
- 17.13. A vendor may not conduct business from a stationary location within 50 yards of another stationary beach vendor operating under the same category of permit. A vendor may not conduct business from a location within 0.5 mile of a permanent business established and operating at a location adjacent to the public beach.
- 17.14. The vendor or permittee must maintain or comply with the criteria or standards set by these rules for the issuance of the permit during the term of the permit.

**18. Additional Requirements for Jet Ski Permits**

- 18.1. A permittee receiving a permit for jet ski rentals must comply with the requirements of this section. Not later than the 30<sup>th</sup> day after date of issuance of the permit, but prior to the beginning of operation of business, the jet ski permittee must file a safety plan with the following parties at the address indicated below:

Galveston County Parks Department  
PO Box 1679  
Crystal Beach, TX 77650  
Attn: Bolivar Beach Sticker Supervisor

Galveston County Sheriff  
715 19<sup>th</sup> Street  
Galveston, Texas 77550

- 18.2. The safety plan must include:
  - 18.2.1. an assurance that all riders will wear Coast Guard approved life jackets;
  - 18.2.2. a copy of instructions that the vendor intends to provide to each rider, which instructions must conform to state and local law concerning the operation of watercraft with an emphasis on safety of swimmers in nearby waters;
  - 18.2.3. an assurance that markers or buoys will be placed, designating the area where riding is allowed;
  - 18.2.4. a description of a rescue procedure for riders with non-operational equipment due to damage or mechanical failure or for injured riders unable to control the craft and safely return to shore; and
  - 18.2.5. a description of the vendor's procedure for medical care of injured riders.
- 18.3. A vendor operating under a jet ski permit may not conduct business from a location within 0.5 mile of another jet ski permittee's business establishment and must not interfere with private jet ski owners or riders.
- 18.4. A vendor operating under a jet ski permit must comply with all state laws applicable to the operation of motor craft.

**19. Penalty, Enforcement**

19.1. Section 61.177, Natural Resources Code, provides that a person, who for himself or on behalf of or under the direction of another person, operates any business establishment, whether mobile or at a fixed or permanent location, on any public beach outside the boundaries of any incorporated city without first obtaining a license to operate the business establishment from the county shall be fined not less than \$10 nor more than \$200.

19.2. Any law enforcement agency with geographical jurisdiction within the area affected by these rules is authorized to enforce these rules. The Director may request the Texas Parks and Wildlife game wardens to assist with enforcement of these rules, pursuant to Section 61.178, Natural Resources Code.