

## **ORDINANCE NO. 15-071**

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING, CHAPTER 29, "PLANNING AND DEVELOPMENT" OF THE CODE OF THE CITY OF GALVESTON; TO UPDATE AND REFLECT CHANGES AS A RESULT OF THE ADOPTION OF THE 2015 LAND DEVELOPMENT REGULATIONS; TO FULLY INCORPORATE SECTIONS 29-54 AND 29-90 OF THE PREVIOUS ZONING STANDARDS OF THE CITY OF GALVESTON, 1991; PLANNING CASE NUMBER 15PA-062; PROVIDING FOR AN EFFECTIVE DATE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

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**WHEREAS**, on March 6, 2015, the City adopted Ordinance Number 15-019, the 2015 Land Development Regulations (LDR's) and the 2015 Zoning Maps. The LDR's regulate different aspects of land development in the City and are comprised of several chapters of the City Code of Galveston and several stand-alone ordinances; and,

**WHEREAS**, Chapter 29, "Planning and Development", of the Code of the City of Galveston, is such a chapter now predominately regulated by the LDR's. As more detailed in **Exhibit 1**, "Staff report", Staff wishes to amend Chapter 29 to update, remove and reflect those changes resulting from the adoption of the 2015 LDR's and Zoning Maps; and,

**WHEREAS**, section 29-54 "Sand dune area definitions was reserved by Ordinance No. 06-009 on January 26, 2006. Sand dune area definitions were then placed in the City of Galveston Zoning Standards, 1991. As a result of the adoption of the LDR's, Sand dune area definitions, is a stand-alone ordinance. For ease of use by property owners, staff, and the general public, staff recommends amending Chapter 29 to incorporate the sand dune area definitions into Chapter 29, of the Code of the City of Galveston; and,

**WHEREAS**, section 29-90 "Development, preservation and protection of sand dunes, had been updated in the City of Galveston Zoning Standards, 1991. Those updates have not been reflected in the City Code of Galveston. For ease of use by property owners, staff, and the general public, staff recommends amending Chapter 29 to update, clarify, and correct Section 29-90, "Development, Preservation and Protection of Sand Dunes", to reflect those current and adopted amendments; and,

**WHEREAS**, after public notice and hearing as required by law, the City Council finds that it is in the public's interest to amend Chapter 29, "Planning and Development", of the Code of the City of Galveston to update, remove, and reflect those changes resulting from the adoption of the 2015 LDR's and Zoning Maps; to amend Section 29-90, "Development, preservation and protection of sand dunes; and to incorporate Section 29-54 "Sand dune area definitions as set forth below.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:**

**SECTION 1.** The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.** Chapter 29 is hereby amended to read and provide as follows:

Chapter 29 – ~~PLANNING AND DEVELOPMENT~~ **PLANNING – BEACH ACCESS DUNE PROTECTION & BEACH FRONT CONSTRUCTION**

**ARTICLE I. - ~~IN GENERAL~~ DEFINITIONS**

Secs. 29-1 ~~29-20. Reserved.~~ Sand dune area definitions

**ARTICLE II. - ~~ZONING~~ **BEACH ACCESS DUNE PROTECTION AND BEACH FRONT CONSTRUCTION REGULATION.****

**Sec. 29-2. Development, Preservation and Protection of Sand Dunes.**

~~Sec. 29-21. Comprehensive zoning standards adopted. Sec. 29-2~~

~~Secs. 29-22, 29-23. Reserved.~~

~~Sec. 29-24. Zoning district map.~~

~~Secs. 29-25 29-30. Reserved.~~

**ARTICLE III. ~~SUBDIVISION~~ REGULATIONS**

~~Sec. 29-31. Subdivision ordinances saved from repeal.~~

~~Secs. 29-32 29-36. Reserved.~~

~~Sec. 29-37. Appendices Zoning districts. (Reserved)~~

~~Secs. 29-38 29-49. Reserved.~~

~~Sec. 29-50. Special definitions and explanations. (Reserved)~~

~~Sec. 29-51. Use regulation definitions. (Reserved)~~

~~Secs. 29-52. Reserved.~~

~~Sec. 29-53. Manufactured housing and travel trailer park definitions. (Reserved)~~

~~Sec. 29-54. Sand dune area definitions. (Reserved)~~

~~Secs. 29-55 29-56. Reserved.~~

~~Sec. 29-57. Industrialized housing and buildings.~~

~~Secs. 29-58 29-65. Reserved.~~

~~Sec. 29-66. Height regulations. (Reserved)~~

~~Sec. 29-67. Vehicle parking regulations. (Reserved)~~

~~Sec. 29-68. Fence regulations.~~

~~Sec. 29-69 29-79. Reserved.~~

~~Sec. 29-80. Special historical district regulations. (Reserved)~~

~~Sec. 29-81. Reserved.~~

~~Sec. 29-82. Political sign regulations. (Reserved)~~

~~Secs. 29-83, 29-84. Reserved.~~

~~Sec. 29-85. Signs in designated historic districts. (Reserved)~~

~~Secs. 29-86. Reserved.~~

~~Sec. 29-87. Standards for manufactured housing and travel trailer parks. (Reserved)~~  
~~Secs. 29-88, 29-89. Reserved.~~  
~~Sec. 29-90. Development, preservation and protection of sand dunes.~~  
~~Sec. 29-91. Excavations. (Reserved)~~  
~~Sec. 29-92. Reserved.~~  
~~Sec. 29-93. Bed and breakfast establishment. (Reserved)~~  
~~Sec. 29-94. Hospital house establishment. (Reserved)~~  
~~Secs. 29-95 – 29-98. Reserved.~~  
~~Sec. 29-99. Broadway Overlay Zone. (Reserved)~~  
~~Sec. 29-100. Traditional neighborhood district (TND). (Reserved)~~  
~~Sec. 29-101. Reserved.~~  
~~Sec. 29-102. Seawall Development Guidelines.~~  
~~Sec. 29-103. Reserved.~~  
~~Sec. 29-104. Resort regulations.~~  
~~Sec. 29-105. Gateway Development Zone Guidelines.~~  
~~Sec. 29-106. Development standards.~~  
~~Secs. 29-107 – 29-110. Reserved.~~  
~~Sec. 29-111. Non conforming uses or structures – Conforming uses or structures.~~  
~~Secs. 29-112 – 29-200. Reserved.~~

#### **ARTICLE IV. – ENFORCEMENT**

~~Sec. 29-201. Administration.~~  
~~Secs. 29-202 – 29-209. Reserved.~~

#### **ARTICLE V. – FEES**

~~Sec. 29-210. Applications for review by planning commission and city council.~~  
~~Sec. 29-211. Applications for review by planning commission.~~  
~~Sec. 29-212. Permits and applications for review by planning and transportation department.~~  
~~Sec. 29-213. Application for review by the historic district review boards. (Sec. 29-80(h)(7))~~  
~~Sec. 29-214. Applications for review by zoning board of adjustment.~~  
~~Sec. 29-215. Application for review by city council.~~  
~~Sec. 29-216. Failure to obtain permit.~~  
~~Sec. 29-217. Zoning standards.~~  
~~Sec. 29-218. Appeals.~~

**SECTION 3.** Chapter 29 is hereby amended by adding Sand Dune Area Definitions to read and provide as follows:

#### **ARTICLE I. DEFINITIONS**

##### **Sec. 29-1. - Sand Dune Area Definitions**

The following words and terms, when used in this Ordinance, shall have the following meanings, unless the context clearly indicates otherwise:

**Affect** - As used in this section regarding dunes, dune vegetation, and the public beach, “affect” means to produce an effect upon dunes, dune vegetation, or public beach use and access.

**Amenities** - Any inhabitable major structures including swimming pools, bathhouses, detached garages, cabanas, pipelines, piers, canals, lakes, ditches, artificial runoff channels and other water retention structures, roads, streets, highways, parking areas and other paved areas (exceeding 144 square feet in area), underground storage tanks, and similar structures.

**Backdunes** - The dunes located landward of the foredune ridge which are usually well vegetated but may also be unvegetated and migratory. These dunes supply sediment to the beach after the foredunes and the foredune ridge have been destroyed by natural or human activities.

**Beach Access** - The right to use and enjoy the public beach, including the right of free and unrestricted ingress and egress to and from the public beach.

**Beach Area** - The beach area is that portion of the public beach North of the mean low tide line of the Gulf of Mexico and South of the Line of Vegetation as protected by V.A.T.C.S. Natural Resources Code, Chapter 61.

**Beach/Dune System** - The land from the line of mean low tide of the Gulf of Mexico to the landward limit of dune formation.

**Beach Profile** - The shape and elevation of the beach as determined by surveying a cross section of the beach.

**Beachfront Construction Certificate** - A permit issued by the City of Galveston Development Services Department of Planning and Community Development and subject to approval by the Galveston Planning Commission in areas specified in subsection (a), authorizing the permittee to engage in beachfront activities as stipulated in the Certificate and in accordance with all conditions and restrictions contained therein.

**Blowout** - A breach in the dunes caused by wind erosion.

**Breach** - A break or gap in the continuity of a dune caused by wind or water.

**Bulkhead** - A structure or partition built to retain or prevent the sliding of land. A secondary purpose is to protect the upland against damage from wave action.

**Coastal and Shore Protection Project** - A project designed to slow shoreline erosion or enhance shoreline stabilization, including, but not limited to, erosion response structures, beach nourishment, sediment bypassing, construction of man-made vegetated mounds, and dune revegetation.

**Commercial Facility** - Any structure used for providing, distributing, and selling goods or

services in commerce including, but not limited to, hotels, restaurants, bars, rental operations, and rental properties, except single family dwellings.

**Construction** - Causing or carrying out any building, bulkheading, filling, clearing, excavation, or substantial improvement to land or the size of any structure. “Building” includes, but is not limited to, all related site work and placement of construction materials on the site. “Filling” includes, but is not limited to, disposal of dredged materials. “Excavation” includes, but is not limited to, removal or alteration of dunes and dune vegetation and scraping, grading, or dredging a site. “Substantial improvements to land or the size of any structure” include, but are not limited to, creation of vehicular or pedestrian trails, landscape work that adversely affects dunes or dune vegetation, and increasing the size of any structure.

**Coppice Mounds** - The initial stages of dune growth formed as sand accumulates on the downwind side of plants and other obstructions on or immediately adjacent to the beach seaward of the foredunes. Coppice mounds may be unvegetated.

**Cumulative Impact** - The effect on beach use and access, on a critical dune area, or an area seaward of the dune protection line which results from the incremental effect of an action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

**Dedication** - Includes, but is not limited to, a restrictive covenant, permanent easement, and fee simple donation.

**Dune** - An emergent mound, hill, or ridge of sand, either bare or vegetated, located on land bordering the waters of the Gulf of Mexico. Dunes are naturally formed by the windward transport of sediment, but can also be created via man-made vegetated mounds. Natural dunes are usually found adjacent to the uppermost limit of wave action and are usually marked by an abrupt change in slope landward of the dry beach. The term includes coppice mounds, foredunes, dunes comprising the foredune ridge, backdunes, and man-made vegetated mounds.

**Dune, Restored (man-made)** - For the purposes of determining construction setbacks and the location of the Dune Protection Line, a restored dune shall be defined as having more than 50% vegetative cover, a 3:1 slope, an average height of 75% of the island’s mean base flood elevation as measured from mean sea level, a naturally established connection to the dune contour and elevation of the adjacent property, and shall not extend further seaward than 4.1’ elevation from mean sea level.

**Dune Area** - A dynamic hill(s) or mound(s), man made or natural, vegetated or bare, composed of beach sand, landward of the mean high tide and adjacent to the Gulf of Mexico. The dune area may contain a coppice mound, foredune, backdune, eolian sandflat and swale.

**Dune Area (Critical)** - That portion of the dune area, either vegetated or not, comprised of the coppice mound, foredune ridge, primary dune area and areas extending landward, from mean high tide to a point within 1,000 feet, that includes all dune structures, swales, sandflats and marshes within a dune complex that are essential to the protection of public beaches submerged land, and state owned land, such as public roads, and coastal public lands, from nuisance, erosion, storm surge, and high wind and waves. Critical dune areas include, but are not limited to, the dunes that store sand in the beach/dune system to replenish eroding public beaches. Typically, this area is composed of areas of bare sand or sparse vegetation consisting of more bitter panicum, sea oats, or seashore dropseed than other species of vegetation. It is intended that the dune area (critical) is identical to the “critical dune area” defined by the regulations of the General Land Office at 31 T.A.C. Sec.15.2. The two terms are used interchangeably in this code.

**Dune Complex** - Any emergent area adjacent to the waters of the Gulf of Mexico in which several types of dunes are found or in which dunes have been established by proper management of the area. In some portions of the Texas coast, dune complexes may contain depressions known as swales.

**Dune Area (Primary)** - That portion of the dune area, either vegetated or not, comprised of the foredune(s), foredune ridges and back toe of the foredune ridge.

**Dune Protection Line** - A line located at the north toe 25 feet landward of the north toe of the critical dune area. Where no dunes exist on beaches west of the western most terminus of the Galveston Seawall the line shall be located 200 feet landward of the vegetation line. For all areas, the Dune Protection Line is depicted on the attached maps. In no case shall the Dune Protection Line be seaward of a straight line connecting the nearest Dune Protection Line on the East with the nearest Dune Protection Line on the West. This term is used synonymously with “Dune Protection Line” as defined by the regulations of the General Land Office at 31 T.A.C. Sec.15.2.

**Dune Protection Permit** - A permit issued by the City of Galveston Development Services Department of Planning and Community Development and approved by the Galveston Planning Commission, in accordance with all conditions of this section, authorizing the permittee to engage in activities stipulated in the Permit and in accordance with all conditions and restrictions contained therein.

**Dune Protection Permit and/or Beachfront Construction Certificate Form** - A form for issuance of dune protection permit and/or beachfront construction certificates pursuant to terms of this Section.

**Dune Vegetation** - Flora indigenous to natural dune complexes on the Texas coast and can include coastal grasses and herbaceous and woody plants.

**Effect or Effects** - “Effects” include: direct effects - those impacts on public beach use and access, on critical dune areas, or on dunes and dune vegetation seaward of a Dune Protection Line which are caused by the action and occur at the same time and place; and

indirect effects - those impacts on beach use and access, on critical dune areas, or on dunes and dune vegetation seaward of a Dune Protection Line which are caused by an action and are later in time or farther removed in distance than a direct effect, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems. “Effects” and “impacts” as used in this ordinance are synonymous. “Effects” may be ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.

**Erosion** - The wearing away of land or the removal of beach and/or dune sediments by wave action, tidal currents, wave currents, drainage, or wind. Erosion includes, but is not limited to, horizontal recession and scour and can be induced or aggravated by human activities.

**Erosion Response Structure** - A hard or rigid structure built for shoreline stabilization, which includes, but is not limited to, a jetty, retaining wall, groin, breakwater, bulkhead, seawall, riprap, rubble mound, revetment, or the foundation of a structure which is the functional equivalent of these specified structures.

**FEMA** - The United States Federal Emergency Management Agency.

**Foredunes** - The first clearly distinguishable, usually vegetated, stabilized large dunes encountered landward of the Gulf of Mexico. On some portions of the Texas Gulf Coast, foredunes may also be large, unvegetated, and unstabilized. Although they may be large and continuous, foredunes are typically hummocky and discontinuous and may be interrupted by breaks and washover areas. Foredunes offer the first significant means of dissipating storm-generated wave and current energy issuing from the Gulf of Mexico. Because various heights and configurations of dunes may perform this function, no standardized physical description applies. Foredunes are distinguishable from surrounding dune types by their relative location and physical appearance.

**Foredune Ridge** - The high continuous line of dunes which are usually well vegetated and rise sharply landward of the foredune area but may also rise directly from a flat, wave-cut beach immediately after a storm.

**GLO** - As used in this Section this acronym refers to the Texas General Land Office.

**Groin** - Short walls built perpendicular to straight stretches of beach and designed to trap sand flowing in the longshore current. The groins along with the Galveston seawall protect the toe of the seawall from erosion.

**Habitable Structures** - Structures suitable for human habitation including, but not limited to, single or multi-family residences, hotels, condominium buildings, and buildings for commercial purposes. Each building of a condominium regime is considered a separate habitable structure, but if a building is divided into apartments, then the entire building, not

the individual apartments, is considered a single habitable structure. Additionally, a habitable structure includes porches, gazebos, and other attached improvements and amenities.

**Industrial Facilities** - Include, but are not limited to, those establishments listed in Part 1, Division D, Major Groups 20-39 and Part 1, Division E, Major Group 49 of the Standard Industrial Classification Manual as adopted by the Executive Office of the President, Office of Management and Budget (1987 ed.). However, for the purposes of this ordinance, the establishments listed in Part 1, Division D, Major Group 20, Industry Group Number 209, Industry Numbers 2091 and 2092 are not considered “industrial facilities.” A list of these facilities may be found in 31 TAC, Sec. 15.2, attached to this Section.

**Jetty** - Long walls built perpendicular or nearly perpendicular to the shoreline to keep sand from flowing into a pass or ship channel.

**Large-Scale Construction** - Construction activity greater than 5,000 square feet in area and habitable structures greater than two stories in height. Multiple-family habitable structures are typical of this type of construction.

**Line of Vegetation** - The extreme seaward boundary of natural vegetation which spreads continuously inland typically used to determine the landward extent of the public beach. Where there is no natural vegetation line, the landward extent of the public beach may be determined as provided by Sec. 61.016 and Sec. 61.017, Texas Natural Resources Code.

**Man-Made Vegetated Mound** - A mound, hill, or ridge of sand created by the deliberate placement of sand or sand trapping devices including sand fences, trees, or brush and planted with dune vegetation.

**Motor Vehicle or Vehicle** - A vehicle as defined by the Texas Uniform Traffic Act, Art. 6701d, Texas Revised Civil Statutes Annotated.

**National Flood Insurance Act** - 42 United States Code, Sec. 4001, et seq.

**Natural Resources** - Land, fish, wildlife, insects, biota, air, surface water, groundwater, plants, trees, habitat of flora and fauna, and other such resources.

**Off-Beach Parking/Pedestrian Access**- The beach is closed to all vehicles for parking and driving throughout the year. Vehicular parking is available on adjacent public streets and parking lots. The beach is accessible to pedestrians by way of public footpaths, dune walkovers or from the public beach easement.

**On-Beach Parking/Pedestrian Access (“T-heads”)** - The beach is open to all vehicles for parking throughout the year. The beach is accessible to pedestrians from the public beach easement.

**On-Beach Driving/Vehicular Access** - The beach is open to all vehicles for parking and driving throughout the year.



**Pedestrian Only Access** - The beach is accessible to pedestrians, by way of footpaths, dune walkovers or from the public beach easement. However, no public parking is available within close proximity.

**Person** - An individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, the United States Government, a state, a municipality, commission, political subdivision, or any international or interstate body or any other governmental entity.

**Pipeline** - A tube or system of tubes used for the transportation of oil, gas, chemicals, fuels, water, sewerage, or other liquid, semi-liquid, or gaseous substances.

**Production and Gathering Facilities** - The equipment used to recover and move oil or gas from a well to a main pipeline, or other point of delivery such as a tank battery, and to place such oil or gas into marketable condition. Included are pipelines used as gathering lines, pumps, tanks, separators, compressors, and associated equipment and roads.

**Public Beach** - As used in this ordinance, “public beach” is defined in the Texas Natural Resources Code, Sec. 61.013(c).

**Practicable** - In determining what is practicable, the City shall consider the effectiveness, scientific feasibility, and commercial availability of the technology or technique. The City shall also consider the cost of the technology or technique.

**Recreational Activity** - Includes, but is not limited to, hiking, sunbathing, and camping for less than 21 days. For purposes of permits, recreational activities are limited to the private activities of the person owning the land and the social guests of the owner. Operation of recreational vehicles is not considered a recreational activity, whether private or public.

**Restoration** - The process of constructing man-made vegetated mounds, repairing damaged dunes, or vegetating existing dunes.

**Restricted Access** - The beach is open to vehicles throughout the year only as a special use area for persons with disabilities, saltwater fishermen and the launching of non-motorized personal watercraft. The beach is accessible to pedestrians from the public beach easement and/or adjacent parking areas.

**Retaining Wall** - A structure designed primarily to contain material and to prevent the sliding of land.

**Sand Budget** - The amount of all sources of sediment, sediment traps, and transport of sediment within a defined area. From the sand budget, it is possible to determine whether sediment gains and losses are in balance.

**Seasonal Access** - Vehicular access/driving is only permitted during designated times of the year, as follows:

Vehicles are prohibited on the beach from 6:00 P.M. Friday to 6:00 P.M. Sunday during the month of March, Memorial Day through Labor Day, and all legal holidays.

**Seawall** - An erosion response structure that is specifically designed to withstand wave forces. The Galveston seawall is a man made barrier, which extends from the east tip of the island to a point near 107th Street. It protects the City from overwash damage and shoreline erosion.

**Seaward of a Dune Protection Line** - The area between a dune protection line and the line of mean high tide.

**Small-Scale Construction** - Construction activity less than or equal to 5,000 square feet and habitable structures less than or equal to two (2) stories in height. Single-family habitable structures are typical of this type of construction.

**Structure** - Includes, without limitation, any building or combination of related components constructed in an ordered scheme that constitutes a work or improvement constructed on or affixed to land.

**Substantial Physical Improvements** - The Director of the Development Services Department of Planning and Community Development, or designee, will approve the determination of “substantial physical improvements”, upon completion of all of the following criteria for development:

1. The filing of a final plat;
2. Installation of public and private infrastructure;
3. Installation of the associated Beach Access Point parking, signage, and walkover; and,
4. The issuance of a building permit for a private residence or public building, excluding a sales office or accessory structure.

**Surveying** - The measurement of dimensional relationships as a method of finding mean high water, mean low water, elevations, the dune structure and vegetation line, conducted by a licensed surveyor in the State of Texas.

**Swales** - Low areas within a dune complex located in some portions of the Texas coast which function as natural rainwater collection areas and are an integral part of the dune complex.

**Washover Areas** - Low areas that are adjacent to beaches and are inundated by waves and storm tides from the Gulf of Mexico. Washovers may be found in abandoned tidal channels or where foredunes are poorly developed or breached by storm tides and wind erosion.

**SECTION 4.** Chapter 29 is hereby amended to read and provide as follows:

## **ARTICLE II. BEACH ACCESS DUNE PROTECTION AND BEACH FRONT CONSTRUCTION REGULATION.**

### **Sec. 29-90. - Sec. 29- 2 Development, Preservation And Protection Of Sand Dunes.**

#### **In General, Statement of Purpose and Intention**

Being located on an island in the Gulf of Mexico, Galveston is commonly subjected to such natural hazards as storm, flood and shoreline erosion. These hazards disrupt commerce and governmental services, impact the tax base and threaten public health, safety, and general welfare. It is to combat these hazards that development, preservation and protection of sand dunes is encouraged. However, many land uses reduce sand dunes' effectiveness in protecting against these hazards and are for this reason alone considered to be contrary to the public interest.

The Open Beaches Act and the Dune Protection Act require the Texas General Land Office to promulgate rules for the protection of critical dune areas and public beach use and access. The General Land Office is required to protect the public beach from erosion or reduction and adverse affects on public access and critical dune areas by regulating beachfront construction and other activities occurring along the shoreline of the Gulf of Mexico. The purpose of these Standards is to augment General Land Office rules and to protect the public health, safety and welfare by minimizing losses due to flood, storm, waves and shoreline erosion. These standards are in compliance with those minimum standards established by the General Land Office and formulated to be consistent with all Federal mandates. This Section provides standards for managing the public beach and human activities occurring on the property fronting the Gulf of Mexico, consistent with the Texas Natural Resources Code, Sec. 61.001 (Open Beaches Act), et seq, a copy of which is attached, and the Texas Natural Resources Code, Sec. 63.001, et seq, (Dune Protection Act), a copy of which is also attached, and the National Flood Insurance Act.

In the event of a conflict between the Open Beaches Act; Dune Protection Act; Texas Administrative Code Title 31, Natural Resources and Conservation, Part I, Chapter 15, Subchapter A, Sections 15.1-15.10 (hereinafter 31 TAC §§15.1 - 15.10); and the Land Development Regulations, the City Code of Galveston, City of Galveston Zoning Standards, State law and regulations shall prevail over this section ordinance.

#### **(a) Requirement for a Dune Protection Permit and/or a Beachfront Construction Certificate**

**Authority:** The City is required to adopt dune protection and beach access plans within its jurisdiction, consistent with Title 31 Texas Administrative Code, §§15.1 - 15.10 (hereinafter 31 TAC §§15.1 - 15.10). By way of this section the City adopts the provisions of Title 31 Texas Administrative Code pertaining to Coastal Area Planning. The City may choose to adopt higher standards for dune protection and beach access than those promulgated by the State. The City may enter into interlocal cooperation contracts for the administration of this program under the Interlocal Cooperation Act, Tex. Rev. Civ. Stat. Art. 4413 (32c). The City shall map or describe the jurisdictional boundaries of the Dune Protection Line and identify said Dune Protection Line by map. The requirement for a Beachfront Construction Certificate or Dune Protection Permit shall not extend landward from the face of the Galveston Seawall.

- (1) Beachfront Construction Certificate - No person shall engage in the construction of any structure or make an addition or alteration to any structure within the 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 the area up to 1,000 feet of mean high tide, whichever distance is greater, until he has secured a Beachfront Construction Certificate.

(2) Dune Protection Permit - No person shall engage in the construction of any structure or make an addition or alteration to any structure or sand dune in the area seaward of the Dune Protection Line until he has secured a Dune Protection Permit for such addition, alteration, or construction.

(3) The requirement for a Dune Protection Permit and/or a Beachfront Construction Certificate shall not apply to routine repairs, maintenance and upkeep of existing structures which do not enlarge, expand or redesign the existing structure except as prohibited in this Section.

(4) Permitting Authorities

a. Final determination of whether repairs, maintenance or upkeep constitutes enlargement, expansion or redesign pursuant to Section ~~subsection~~ (a) (3) above shall be the responsibility of the Development Services Department ~~of Planning and Community Development.~~

b. Beachfront Construction Certificates and Dune Protection Permits for construction seaward of the Dune Protection Line and Beachfront Construction Certificates for construction up to ~~fifty (50)~~ 50 feet landward of the Dune Protection Line (~~seventy-five (75) feet~~ 75' landward of the north toe of the critical dune area) are subject to review by the Development Services Department ~~of Planning and Community Development~~ and are issued by the Planning Commission which includes all beach maintenance activities.

c. Beachfront Construction Certificates for the area more than 50 feet landward of the Dune Protection Line (~~seventy-five (75) feet~~ 75' landward of the north toe of the critical dune area) are issued by the Development Services Department ~~of Planning and Community Development.~~

d. Dune Protection Permits for dune enhancement and revegetation activities only are issued by the Development Services Department ~~of Planning and Community Development.~~

e. Beachfront Construction Certificates and Dune Protection Permits for the construction of new driveways, slabs, ground level enclosures beneath the existing footprint of the structure, dune walkovers, sand fences, perimeter fencing, fill projects, restored (man-made) dune projects located seaward of the Dune Protection Line and Beachfront Construction Certificates for construction up to 50 feet landward of the Dune Protection Line (75' landward of the north toe of the critical dune area) are subject to review and are only issued by the Development Services Department of Planning and Community Development.

(5) No building permit shall be issued for any activity for which a Dune Protection Permit and/or Beachfront Construction Certificate is required until such permit and/or certificate has been issued by the city Galveston Planning Commission, or, when appropriate, the Development Services Department ~~of Planning and Community Development.~~

(6) No person shall engage in any business or occupy any structure for which a dune protection permit and/or beachfront construction certificate is required until he first secures a Certificate of Occupancy from the Building Official. Such Certificate of Occupancy shall be approved by the Development Services Department of Planning and Community Development as being in compliance with these Zoning Standards the Land Development Regulations.

(7) The City of Galveston, Development Services Department of Planning and Community Development, shall review the Dune Protection Line every five (5) years to determine whether the line is adequately located to achieve the purpose of preserving critical dune areas. In addition to the five-year review, the City of Galveston Development Services Department of Planning and Community Development shall review the adequacy of the location of the Dune Protection Line within ninety (90) 90 days after a tropical storm or hurricane affects the portion of the coast. No Beachfront Construction Certificates or Dune Protection Permits for new construction will be approved until a review of the Dune Protection Line has been completed after a tropical storm or hurricane. Requirements for Permits as stated in subsection (d) of this Section will be followed.

**(b) Building Requirements**

Structures required to have a Dune Protection Permit and/or a Beachfront Construction Certificate shall comply with FEMA standards for construction in flood hazard areas. Structures built seaward of the dune protection line shall comply with the following additional requirement:

- (1) Piers, if required, shall be set and the structure shall be constructed with minimum destruction of the existing terrain and vegetation;
- (2) The structure and lot design shall provide for the gradual and dispersed drainage of storm water runoff, such that runoff within the lot approximates natural rates, volumes, and direction of flow to avoid erosion and dune damage. Drain spouts, if any, shall be located so as to collect rainwater and distribute same evenly under the structure if no slab; porches, patios and balconies shall be constructed to allow rainwater to pass through. All drainage from the lot shall flow away from the beach and primary dune area; and
- (3) All permittees building structures seaward of the dune protection line must utilize the mitigation sequence defined in subsection (1) of this Section and subsection 15.4(f) of the General Land Office regulations if dunes and dune vegetation will be adversely effected.

**(c) Vegetation and Topography Seaward of the Dune Protection Line**

As provided in this Section unless otherwise unavoidable during construction, removal or destruction of vegetation within the area seaward of the Dune Protection Line is prohibited. Any area where vegetation was removed or destroyed shall be revegetated. Likewise, alteration of the existing topography is prohibited unless otherwise unavoidable during construction.

Any unavoidable alteration of the contour as a result of construction activities shall be restored and revegetated, and any breach in the dune area, whether caused by man or nature shall be restored and revegetated before the issuance of a Certificate of Occupancy. Restoration and revegetation shall occur as follows:

- (1) All areas shall be restored to their original elevation. Breaches shall be restored to the

contour of the adjacent dunes;

- (2) If the area is located in the critical dune area, then it shall be revegetated with Bitter Panicum (Panicum amarum) planted on ~~two-foot~~ (2') centers with one hundred percent (100%) coverage of the area and a mixture of Bitter Panicum (Panicum amarum) and Marshy Cordgrass (Spartina patens) planted on one foot (1') centers with one hundred percent (100%) coverage of the area;
- (3) Sand fencing shall be required;
- (4) Revegetation shall not be considered complete until the area has been returned to its original condition prior to the time of destruction, at a ratio of 1:1, as determined by the Development Services Department ~~of Planning and Community Development~~; and,
- (5) Removing or altering dune vegetation is prohibited unless the permittee has obtained a Dune Protection Permit.

**(d) Pre-existing Uses: Destruction-existing Uses: Destruction**

Notwithstanding that a structure was in existence prior to adoption of this Section such structure or use shall comply with the provisions hereof including all other applicable provisions of the Zoning Standards Land Development Regulations where such use or structure is expanded by any degree, moved to a new location, or destroyed in excess of fifty percent (50%) of its market value by fire or other catastrophe at the time of such destruction. When a structure which has been damaged less than fifty percent (50%), but is seaward of the Dune Protection Line, and by determination by the Development Services Department ~~of Planning and Community Development~~, the planned development will cause material damage to dunes or dune vegetation in the Critical Dune Area, such reconstruction of the development shall require a Beachfront Construction Certificate and Dune Protection Permit. The Development Services Department ~~of Planning and Community Development~~ shall use standards as identified in (k) of this Section in determining whether the planned development will cause material damage to dunes or dune vegetation in the critical dune area.

**(e) Dune Walkovers**

Construction of dune walkovers shall meet the following standards:

- (1) A dune walkover shall not exceed six feet (6') in width, the deck or floor of which shall be constructed at a height above the highest dune of not less than the width of said walkover, and maintain this height over the entire dune area. Walkovers in excess of four feet (4') in width shall only be considered for individual lots that require access for disabled persons, shared walkovers amongst ~~two (2)~~ three (3) or more individual lots or for high traffic areas such as public access points or multi-family properties;
- (2) Except with respect to paired posts constructed on each side of the walkover, posts shall be placed at intervals no closer than six feet (6') and in such a manner that new posts are not needed if walkway needs elevating;
- (3) Any vegetation or contours disturbed during construction shall be restored as provided herein;
- (4) Only one dune walkover shall be permitted per residential lot;
- (5) Dune walkovers must be constructed to maintain ½" spacing between the slats to allow



rain and sand to pass through the decking. Additionally, walkovers shall be designed to allow for necessary modifications while minimizing disruption of the dune system;

- (6) The walkover must start at the northern boundary of the Critical Dune Area and shall end on the beach beyond any coppice mounds, no further than ten feet (10') seaward of the vegetation line. Dune walkovers may not impede or restrict access to, and use of, the public beach at normal high tide;
  - (7) All walkovers built in public areas be constructed with two (2) handrails;
  - (8) All walkovers be constructed according to the International Building Code Standards;
  - (9) It shall be the duty of the property owner, pursuant to the requirements of this Section to keep and maintain said dune walkover in a good condition of repair and maintenance;
  - (10) Permittees must relocate walkovers to follow any landward migration of the public beach or seaward migration of the dunes and maintain the walkover height to approved levels. The Development Services Department ~~of Planning and Community Development~~ may inspect and require dune walkover compliance within a reasonable period of time. Notwithstanding this, compliance should not cause renewed damage to existing post locations within dunes or swales from construction or construction equipment;
  - (11) All dune walkover construction, improvement or repair must be permitted through the Development Services Department ~~of Planning and Community Development~~, City of Galveston; and.
  - (12) Applicants for public dune walkovers may request approval for alternative design standards from the Development Services Department ~~of Planning and Community Development~~.
- (f) **Beachfront Construction Certificate and Dune Protection Permit Application Requirements**

**Authority:** Title 31 TAC, § 15.3(s)(4), requires the City of Galveston to obtain the following items and information from applicants for Beachfront Construction Certificates and Dune Protection Permits.

- (1) For all proposed construction (large- and small-scale), required to obtain a Beachfront Construction Certificate and/or a Dune Protection Permit, applicants shall submit the following items and information to the Development Services ~~Department of Planning and Community Development~~. (No application will be accepted until all required materials are provided to the Development Services Department ~~of Planning and Community Development~~):
  - a. A complete application according to standards set by the Development Services Department ~~of Planning and Community Development~~ for a Dune Protection Permit and/or a Beachfront Construction Certificate, including the name, address, phone number, and if applicable fax number of the applicant, and the name of the property owner, if different from the applicant;
  - b. An accurate map or plat of the site identifying:
    1. The site by its legal description, including, where applicable, the subdivision, block, and lot and the size in acres or square feet;

2. The location of the property lines and a notation of the legal description of adjoining tracts;
  3. The location of the structures, the footprint or perimeter of the proposed construction on the tract, and whether the structures are amenities or habitable structures;
  4. Proposed or existing roadways and driveways, parking, dune walkovers and proposed landscaping activities on the tract; and
  5. The location of any seawalls or any other erosion response structures on the tract and on the properties immediately adjacent to the tract;
  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. The approximate duration of construction; and,
  8. A survey by a licensed surveyor; and if the Beachfront Construction Certificate is for an area defined in (a)(4)(b) of these Standards, a topographic survey is also required.
- (2) For all proposed construction (large- and small-scale), located seaward of the Dune Protection Line, the applicant shall submit the following additional items and information to the **Development Services** Department **of Planning and Community Development**:
- a. A comprehensive mitigation plan which includes a detailed description of the methods which will be used to avoid, minimize, mitigate and/or compensate for any adverse effects on dunes or dune vegetation shall be required for all alterations and development activity seaward of the Dune Protection Line, including effects on the proposed activity on the beach/dune system which cannot be avoided should the proposed activity be permitted, including, but not limited to, damage to dune vegetation, alteration of dune size and shape, and changes to dune hydrology;
  - b. Proof of financial capability to mitigate or compensate for adverse effects on dunes and dune vegetation (e.g., an irrevocable letter of credit or a performance bond) or, if required for Special Requirements for Eroding Areas, to fund eventual relocation or demolition of structures (e.g., Upton-Jones coverage in the National Flood Insurance Program);
  - c. A copy of the FEMA elevation requirements;
  - d. A current topographic map, provided by a licensed surveyor, depicting any and all proposed changes to the terrain; indicate on topographic map any and all changes to the natural or man-made environment within the Critical Dune Area in order to build;
  - e. The approximate percentage of existing and finished open spaces (those areas completely free of structures);
  - f. The floor plan and elevation view of the structure proposed to be constructed or expanded and showing all plumbing plans;
  - g. A grading and layout plan identifying all elevations (in reference to the National Oceanic and Atmospheric Administration datum), existing contours of the project



area (including the location of dunes and swales), wetlands, and proposed contours for the final grade;

- h. Dated photographs of the site which clearly show the current location of the vegetation line and the existing dunes on the tract and the adjacent property from directions south, north, east and west;
  - i. The most recent local erosion rate data (based on published data from the Bureau of Economic Geology, University of Texas, Austin), and the activity's potential impact on coastal erosion.
- (3) For all proposed large-scale construction (construction required to have a Dune Protection Permit and/or a Beachfront Construction Certificate), applicants shall submit the following additional items and information:
- a. In the case of multiple-unit dwellings, the number of units proposed;
  - b. 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 the proposed activity's impact on the natural drainage pattern on the site and the adjacent lots; and,
  - c. 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, and a statement of the total area of the subdivision in acres or square feet.
- (4) Upon completion of the development, and prior to the issuance of a "Certificate of Occupancy," for those structures requiring Planning Commission approval, the permittee shall provide the Development Services Department ~~of Planning and Community Development~~ with a final survey indicating finished elevations, surfaces, drainage patterns, fences, dune walkovers and landscape detail, or certification by a registered professional engineer that all Permit conditions have been met. No "Certificate of Occupancy" shall be approved until the Development Services Department ~~of Planning and Community Development~~ approves a "Certificate of Completion," verifying that all Permit conditions have been satisfied.

**(g) Texas General Land Office and State Attorney General's Office**

A person proposing to conduct an activity for which a Beachfront Construction Certificate and Dune Protection Permit is required shall submit a complete application to the Development Services Department ~~of Planning and Community Development~~. This Department shall forward the complete application, including all items and information as set forth in 31, TAC §15.3(s)(4)(D) to the General Land Office (GLO), the Attorney General's Office, and if necessary, to the Corps of Engineers.

The application, any documents associated with the application, and information as to when the decision will be made must be received by the GLO and the Attorney General's Office no later than ~~twenty~~ 20 days from the date the Development Services Department ~~of Planning and Community Development~~ and Planning Commission, if required, is first scheduled to act on the Beachfront Construction Certificate and Dune Protection Permit. A preliminary determination as to whether the proposed construction complies with all aspects of the local government's dune protection and beach access plan will be provided by the Development

Services Department ~~of Planning and Community Development~~.

**(h) Termination of Permit and/or Certificate of Permit and/or Certificate**

- (1) The Planning Commission or the Development Services Department ~~of Planning and Community Development~~ may void a Beachfront Construction Certificate and/or Dune Protection Permit, for their respective responsibilities as outlined in Section (a)(4), if:
  - a. The permit is inconsistent with this Section at the time the permit was issued;
  - b. A material change occurs after the permit or certificate is issued or a permittee fails to disclose any material fact in the application; or,
  - c. If the construction comes to lie within the boundaries of the public beach.
- (2) "Material Change" includes human or natural conditions which have adversely affected dunes, dune vegetation, or beach access and use that either did not exist at the time of the original application, or were not considered by the Planning Commission in making the permitting decision because the permittee did not provide information regarding the site condition in the original application.
- (3) Unless conditions under Section (h) of these Standards apply, work approved under this Permit shall be completed as described below:
  - a. One family dwelling (detached), or Two family dwelling:  
Within one (1) year from the date of the permit.
  - b. One family dwelling (attached), Multiple-family dwelling, or Non-residential project:  
Within three (3) years from the date of the permit.
  - c. For projects described in this subsection, the applicant shall submit an annual written report to the Development Services Department ~~of Planning and Community Development~~ on the progress of the construction project and compliance with the approved permit. This report shall be submitted no later than one (1) year from the date of the permit, and subsequent annual reports submitted thereafter.

If work is not completed in this time period, it will be necessary for the applicant to reapply for a Beachfront Construction Certificate and/or Dune Protection Permit, unless an extension of the permit, prior to its expiration, has been submitted to the Texas General Land Office and approved by the City of Galveston.

**(i) Beachfront Construction Certificate and Dune Protection Permit Standards**

- (1) **Beachfront Construction Certificate Authority:** 31 TAC §15/5. requires the City of Galveston to comply with the following standards in issuing, denying or conditioning a Beachfront Construction Certificate.

The request for a Beachfront Construction Certificate will be considered inconsistent with this Section and therefore, will not be approved, if the request:

- (a) Reduces the size of the public beach or encroaches on the public beach in any manner, except for man-made vegetated mounds and dune walkovers constructed in compliance with the requirements of this section ordinance;

- (b) Functionally supports, depends on or is otherwise related to proposed or existing structures that encroach on the public beach, regardless of whether the encroaching structure is on land that was previously landward of the public beach, unless otherwise permitted by law, including, but not limited to, the authority granted under 31 TAC §15.5;
  - (c) Closes any existing public beach access or parking area, unless equivalent or better dedicated public access or parking is established;
  - (d) Cumulatively or indirectly impairs or adversely affects public use of or access to and from a public beach, including failure to comply with any requirements in Management of the Public Beach unless equivalent or better access or parking is established; or,
  - (e) Fails to comply with any requirements of Requirements for Beachfront Construction Certificates and Dune Protection Permits.
- (2) **Dune Protection Permit Authority:** 31 TAC, §15.4, requires the City of Galveston to comply with the following standards in issuing, denying or conditioning a Dune Protection Permit for those areas within the Critical Dune Area.
- Before issuing a Dune Protection Permit the Development Services Department ~~of Planning and Community Development~~ and the Planning Commission, for their respective responsibilities as outlined in §(a)(4), must find that:
- a. The proposed activity is not a prohibited activity as defined in these Standards;
  - b. The proposed activity will not materially weaken dunes or materially damage dune vegetation seaward of the Dune Protection Line based on substantive findings as defined in “Technical Standards” of this Section;
  - c. There are no practicable alternatives to the proposed activity that is located seaward of the Dune Protection Line and adverse effects cannot be avoided as provided in the mitigation sequence as outlined in this section;
  - d. The applicant’s mitigation plan, for an activity seaward of the Dune Protection Line, if required, will adequately minimize, mitigate, and/or compensate for any unavoidable adverse effects;
  - e. The proposed activity complies with any applicable requirements of: Requirements for Beachfront Construction Certificate and Dune Protection Permits and Management of the Public Beach of this Section; and,
  - f. The structure is located as far landward as practicable.

**(j) Prohibitions**

- (1) **Prohibited Activities seaward of the dune protection line:** The Planning Commission and the Development Services Department ~~of Planning and Community Development~~ shall not issue a Beachfront Construction Certificate or a Dune Protection Permit authorizing the following acts seaward of the Dune Protection Line:
- a. Activities that are likely to result in the temporary or permanent removal of sand from the portion of the beach/dune system located on or adjacent to the construction site, including:

1. Relocating sand; and,
  2. Temporarily or permanently moving sand off the site, except for purposes of permitted mitigation, compensation, or an approved dune restoration or beach nourishment project and then only from areas where the historical accretion rate is greater than one foot ~~(4)~~ per year, and the project does not cause any adverse effects on the sediment budget;
- b. Depositing sand, soil, sediment, or dredged spoil which contains any of the toxic materials listed in Volume 40 of the Code of Federal Regulations, Part 302.4, in concentrations which are harmful to people, flora, and fauna as determined by applicable, relevant, and appropriate requirements for toxicity standards established by the local, state, or federal governments;
  - c. Depositing sand, soil, sediment, or dredged spoil seaward of the Dune Protection Line, which is of an unacceptable mineralogy or grain size when compared to the sediments found on the site (this prohibition does not apply to materials related to the installation or maintenance of public beach access roads running generally perpendicular to the public beach or for approved beach nourishment projects as described in (n)(3) of ~~these Zoning Standards~~ this ordinance);
  - d. Creating dredged spoil disposal sites, such as levees and weirs, without the appropriate local, state, and federal permits;
  - e. Constructing or operating industrial facilities not in full compliance with all relevant laws and permitting requirements prior to the effective date of this section ordinance;
  - f. Operating recreational vehicles; dune buggy, marsh buggy, mini-bike, trail bike, jeep, or any other mechanized vehicle that is being used for recreational purposes, but does not include any vehicle not being used for recreational purposes (Chapter 63. §63.002(4), Texas Natural Resource Code);
  - g. Mining dunes;
  - h. Constructing concrete slabs or other impervious surfaces landward of the line of vegetation.
    1. Paving or altering the ground below the lowest habitable floor is prohibited in the area between the line of vegetation and ~~twenty-five (25)~~ 25 feet landward of the north toe of the dune;
    2. Paving used under the habitable structure and for any driveway(s) connecting the habitable structure and the street is limited to the use of unreinforced fibercrete in ~~four foot x four foot~~ 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 Development Services Department ~~of Planning and Community Development~~, in that area ~~twenty-five~~ 25-feet landward of the north toe of the dune to ~~two hundred~~ 200-feet landward of the line of vegetation, measured to the southernmost point of the structure, including decks, stairs, etc. The City shall assess a "Fibercrete Maintenance Fee" of ~~two hundred dollars~~ \$200.00 to be used to pay for the clean-up of fibercrete from the public beaches should the need arise;
    3. Reinforced concrete may be used under the habitable structure and for any

driveways connecting the habitable structure ~~and~~ to the street ~~and for in-ground gunite swimming pools~~ for property located landward of ~~two hundred~~ 200-feet from the line of vegetation, measured to the southernmost point of the structure, including decks, stairs, etc;

~~Driveways are limited to the linear width of the primary structure along the main street and a minimum of fifteen (15) percent of the front yard must be maintained as open/unimproved area. The area for measurement of the open/unimproved area will be from the front building facade where the driveway begins to the platted property line.~~

- i. Depositing trash, waste, or debris including inert materials such as concrete, stone, and bricks that are not part of the permitted on-site construction;
  - j. Constructing cisterns, septic tanks, and septic fields seaward of any structure serviced by the cisterns, septic tanks, and septic fields, with the exception of subdivisions platted before the enactment of this Section; or,
  - k. Detonating bombs or explosives.
- (2) The City of Galveston Planning Commission and the Development Services Department ~~of Planning and Community Development~~ shall not issue a Beachfront Construction Certificate and Dune Protection Permit that does not comply with FEMA minimum requirements or with this Section .
- (3) **Prohibited Erosion Response Structures:** Erosion response structures as set forth in 31 TAC §15.6 are as follows:
- a. Construction of retaining walls is prohibited within ~~two hundred~~ 200-feet landward of the natural line of vegetation;
  - b. Repairing, or maintaining existing erosion response structures is prohibited within ~~two hundred~~ 200-feet landward of the vegetation line or within the Critical Dune Area, except in the following circumstances:
    1. Where the failure to repair the structure will cause unreasonable flood hazard to a public building, public road, public water supply, public sewer system, or other public facility immediately landward of the structure; and,
    2. Where the failure to repair the structure will cause unreasonable flood hazard to habitable structures because adjacent erosion response structures will channel floodwaters to the habitable structure;
  - c. A determination as to whether ~~subsection~~ (2)(a) and (2)(b) above will occur, will be made by the Planning Commission.
- (4) Activities prohibited within the area seaward of the Dune Protection Line without a Beachfront Construction Certificate and Dune Protection Permit:
- a. Removal, relocation, or movement of sand or dunes except for the clearing of sand off of dune walkover steps;
  - b. Construction of dunes;
  - c. Removal of vegetation (killing, destroying or removing in any manner any vegetation growing on a sand dune seaward of the Dune Protection Line or within a

- critical dune area); or,
- d. Placement of fill within the critical dune area.

- (5) Prohibited activities under a Dune Protection Permit or a Beachfront Construction Certificate where it is shown that a loss of sand, silt, shell, sediment, vegetation or any other geologic or biological component of the Critical Dune Area will result are as follows:
- a. Parking of any motor vehicle except in an area approved by the Planning Commission for parking of a motor vehicle;
  - b. Exposed storage of goods, equipment, building materials, junk, household items, boats, furniture, wares or merchandise of any kind;
  - c. Any type of construction work, other than that on the main structure or on a main building;
  - d. Construction of substructures under the main building;
  - e. Use or placement of playground equipment, volley ball nets, showers, barbecues, stables, utilities, or other apparatus;
  - f. Grazing of any animal which is prohibited by the City of Galveston in accordance with this ~~section~~ §29-90, Galveston Zoning Standards ordinance;
  - g. Horse riding except as permitted in section §8-8, Galveston City Code;
  - h. Operation of any motor vehicle except for necessary maintenance and clean up and for transportation to and from permitted habitable structures;
  - i. Mowing;
  - j. Paving of any type; or,
  - k. Creation of roads, trails, or paths and the use of trails or paths, except those access roads approved by the City of Galveston as part of its access plan.

**(k) Technical Standards**

**Authority:** Title 31 TAC. Natural Resources and Conservation, Part I, Chapter 15, Subchapter A, Section 15.4, requires the City of Galveston to comply with the following technical standards when issuing, denying or conditioning a Beachfront Construction Certificate and/or Dune Protection Permit seaward of the Dune Protection Line.

- (1) The following standards will be used to determine material weakening and material damage of dune vegetation within a critical dune area or seaward of the Dune Protection Line. (Failure to meet any one of these standards will result in a finding of material weakening or material damage and the Planning Commission shall not approve the application for the construction as proposed):
- a. The activity shall not result in the potential for increased flood damage to the proposed construction site or adjacent property;
  - b. The activity shall not result in runoff or drainage patterns that aggravate erosion on



or off the site;

- c. The activity shall not result in significant changes to dune hydrology;
  - d. The activity shall not result in adverse affects on dune complexes or dune vegetation;
  - e. The activity shall not significantly increase the potential for washovers or blowouts to occur; or
  - f. The Commission shall not issue a Beachfront Construction Certificate and Dune Protection Permit authorizing construction unless the construction and property design is designed so as to minimize impacts on natural hydrology. Such projects shall not cause erosion to adjacent properties, critical dune areas, or the public beach.
- (2) Other considerations when determining whether to grant a Beachfront Construction Certificate and Dune Protection Permit seaward of the Dune Protection Line are as follows:
- a. Cumulative and indirect effects of the proposed construction on all dunes and dune vegetation within the Critical Dune Area or seaward of the Dune Protection Line;
  - b. Cumulative and indirect effects of other activities on dunes and dune vegetation located on the proposed construction site;
  - c. The pre-construction type, height, width, slope, volume, and continuity of the dunes, the pre-construction condition of the dunes, the type of dune vegetation, and percent of vegetation cover on the site;
  - d. Whether the proposed construction may alter dunes and dune vegetation in a manner that may aggravate erosion;
  - e. The local historical erosion rate;
  - f. The impacts on the natural drainage patterns of the site and adjacent property;
  - g. Any significant environmental features of the potentially affected dunes and dune vegetation such as their value and function as flora or fauna habitat or any other benefits the dunes and dune vegetation provide to other natural resources;
  - h. Wind and storm patterns including a history of washover patterns;
  - i. Location of the site on the flood insurance rate map;
  - j. Success rates of dune stabilization projects in the area;
  - k. All comments submitted to the local government by the General Land Office and the Attorney General;
  - l. The Beachfront Construction Certificate and Dune Protection Permit Application;
  - m. The proposed activity's consistency with TAC Title 31, the City of Galveston's Dune Protection and Beach Access Plan, including the Dune Protection and Beachfront Construction Standards contained in both;
  - n. Any other law relevant to dune protection and beach use and access which affects the activity under review;
  - o. Any other relevant information the City of Galveston may consider useful to

determine consistency with its dune protection and beach access plans including resource information made available to them by Federal and State natural resource entities. The City of Galveston Planning Commission shall not issue a Beachfront Construction Certificate or a Dune Protection Permit that is inconsistent with its Plan, Title 31 of the Texas Administration Code, and any other State, Federal and local laws related to the requirements of the Dune Protection Act and Open Beaches Act.

- (l) **The Mitigation Sequence** shall be used by local governments in determining whether to issue a permit for an activity seaward of the Dune Protection Line, after the determination that no material weakening of dunes or material damage to dunes will occur within critical dune areas or seaward of the Dune Protection Line. The mitigation sequence is as follows:

- (1) Avoid ~~avoiding~~ the impact altogether by not taking a certain action or parts of an action;
- (2) Minimize ~~minimizing~~ impacts by limiting the degree or magnitude of the action and its implementation;
- (3) Rectify ~~rectifying~~ the impact by repairing, rehabilitating, or restoring the affected environment; and,
- (4) Compensate ~~compensating~~ for the impact by replacing resources lost or damaged.

The above sequence shall be followed as set forth in guidelines promulgated in 31 TAC, § 15.4. Dune Protection Standards. The permittee shall be deemed to have failed to achieve compensation if a 1:1 ratio has not been achieved within three years after beginning compensation efforts. If, for any reason, an applicant cannot demonstrate the ability to mitigate adverse effects on dunes and dune vegetation, the Planning Commission is not authorized to issue the Permit. The Development Services Department ~~of Planning and Community Development~~ shall provide applicants with the mitigation sequence and standards to be followed.

(m) **Special Standards for Eroding Areas**

Authority: 31 TAC, § 15.6, requires the City of Galveston to comply with the following standards for eroding areas, when issuing, denying or conditioning a Beachfront Construction Certificate and Dune Protection Permit.

Eroding areas on Galveston Island are defined as: A portion of the shoreline which is experiencing a historical erosion rate of greater than one foot (1') per year, that is, all of the Galveston Island west of the westernmost end of the Seawall. The special standards are as follows:

- (1) That structures located on property adjacent to the public beach be designed for feasible relocation (i.e. on piers);
- (2) Paving or altering the ground below the lowest habitable floor is prohibited in the area between the line of vegetation and ~~twenty-five~~ 25-foot landward of the north toe of the dune;

Paving used under the habitable structure and for any driveway(s) connecting the habitable structure and the street is limited to the use of unreinforced fibercrete in ~~four-foot x four-foot~~ 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



~~Development Services~~ Department ~~of Planning and Community Development~~, in that area ~~twenty-five (25)-~~ 25-foot landward of the north toe of the dune to ~~two hundred~~ 200-foot landward of the line of vegetation, measured to the southernmost point of the structure, including decks, stairs, etc. The City shall assess a “Fibercrete Maintenance Fee” of ~~two hundred dollars~~ \$200.00 to be used to pay for the clean-up of fibercrete from the public beaches should the need arise;

Reinforced concrete may be under the habitable structure and for any driveways connecting the habitable structure and to the street ~~and for in-ground gunite swimming pools~~ for property located landward of ~~two hundred~~ 200-feet from the line of vegetation, measured to the southernmost point of the structure, including decks, stairs, etc;

Driveways are limited to the linear width of the primary structure, along the main street, and a minimum of ~~fifteen percent~~ 15% of the ~~from front~~ yard must be maintained as open/unimproved area. The area for measurement of the open/unimproved space will be from the front building façade, where the driveway begins, to the platted property line.

- (3) Financial assurance is required to fund eventual relocation or demolition of the proposed structure (e.g. through proof of Upton-Jones coverage in the National Flood Insurance Program); and,
- (4) Structures built in eroding areas must be elevated in accordance with FEMA minimum standards or above the natural elevation.

**(n) Management of the Public Beach**

Authority: 31 TAC, §15.7, requires the City of Galveston to apply the following standards in issuing, denying or conditioning Beachfront Construction Certificate and/or Dune Protection Permits relating to management of the public beach:

- (1) The City shall encourage carefully planned beach nourishment for erosion response and prohibit erosion response structures within the public beach and ~~two hundred~~ 200-foot landward of the natural vegetation line;
- (2) Permittees are required to notify the General Land Office and the City of any discernible change in the erosion rate on their property. The City ~~of Galveston~~ or the State of Texas may require a permittee to conduct or pay for a monitoring program to study the effects of a coastal and shore protection project on the public beach;
- (3) Permittees must adhere to the following requirements for dune enhancement projects:
  - a. An approved Beachfront Construction Certificate and Dune Protection Permit from the City ~~of Galveston~~ ~~Development Services~~ Department ~~of Planning and Community Development~~;
  - b. The project must be consistent with the City’s dune and beach policies;
  - c. The sediment to be used must be of effective grain size, mineralogy, and quality or the same as the existing beach material subject to availability. If beach quality sand is not available on Galveston Island, and in the judgment of the ~~Development Services~~ Department ~~of Planning and Community Development~~ is prohibitively expensive from mainland sources, a sub-base not of effective grain size, mineralogy, and quality, sufficient to provide a foundation for beach quality sand enhancement, may be used subject to the approval of the ~~Development Services~~ Department ~~of Planning and Community Development~~ and the ~~state Texas~~ General Land Office;
  - d. The material must be free of hazardous substances (as defined in Volume 40 of the

Code of Federal Regulations, Part 302.4) in concentrations which are harmful to people, flora, or fauna as determined by applicable, relevant, and appropriate requirements for toxicity standards established by the local, state, and federal governments;

- e. There will be no adverse environmental effects on the property surrounding the area from which the sediment will be taken or to the site of the proposed nourishment;
- f. The removal of sediment will not have adverse impacts on flora and fauna;
- g. There will be no adverse effects caused from transporting the nourishment material; and,
- h. The City may allow restoration of dunes on the public beach up to **twenty** 20-feet, if it is determined that the seaward migration of the dunes would occur naturally. Dune restoration seaward of the 20-foot limit must receive GLO approval. Interference with public use of the beach is prohibited. Dune reconstruction must approximate the natural formation of dunes and indigenous vegetation must be used. The following methods and materials shall not be permitted:
  - 1. Hard or engineered structures;
  - 2. Non-biodegradable items;
  - 3. Fine clay or silty sediments;
  - 4. Toxic materials as previously defined in this Section; or,
  - 5. Scraping or grading the beach, unless approved by the City of Galveston, approved by the **state Texas** Attorney General, and monitored by the **Development Services** Department ~~of Planning and Community Development~~ to determine any changes that may increase erosion of the public beach. Local governments shall not allow a permittee to construct or maintain a private structure on the restored dunes within critical dune areas or seaward of a dune protection line except for specifically permitted dune walkovers or similar access ways.

Restored or man-made dunes will be protected under the same standards as natural dunes. Areas designated for stock piling of beach scrapings will not be considered as man-made dunes.

**(o) Public Beach Use and Access**

Authority: 31 TAC, §15.7, requires that the City **of Galveston's** regulation of the pedestrian and vehicular access, traffic and parking on the beach in a manner that preserves or enhances existing public right to use and have access to and from the beach.

The City **of Galveston** shall presume that any beach fronting the Gulf of Mexico within its jurisdiction is a public beach unless the owner of the adjacent land obtains a declaratory judgment finding otherwise under the Open Beaches Act, Sec. 61.019. The Attorney General shall make the determination on issues relating to the location of the boundary of the public beach and encroachments on the public beach pursuant to the requirements of the Open Beaches Act.

The City **of Galveston** shall regulate pedestrian and vehicular beach access, traffic and parking on the public beach only in a manner that preserves or enhances existing public access and use. The following standards will be observed when regulating access and

parking on the public beach:

- (1) Parking requirements for all new or replatted developments, on or adjacent to the beach, where there is no existing public parking, will be calculated at one (1) space for each ~~fifteen~~ 15 linear feet of beach frontage, calculated to meet the Galveston Land Development Regulations Zoning Standards for space requirements. Off-beach parking boundaries will be identified with signage and maintained on a continuous basis. Furthermore, at the election of the Planning Commission and in accordance with Subdivision Regulations, the Galveston Zoning Standards Land Development Regulations, and state law, the Commission may request all parking consolidated and so dedicated;
- (2) All access ways to the beach will be constructed so as to avoid breaches in the dune system and maintain the dune integrity;
- (3) Signs shall be displayed in a conspicuous location identifying access and parking for the public beach;
- (4) All parking and access plans must be consistent with General Land Office regulations as promulgated in state law. The City of Galveston therefore, adopts Beach Access and Parking Plan, as it appears in Appendix A of this Section .

**(5) Beach Traffic Orders**

All beach traffic orders, including but not limited to, parking, access, signage, obstructions, and speed limits shall be in conformance with Galveston City Code.

**(6) Beach Maintenance Activities**

- a. The City of Galveston shall prohibit beach maintenance activities which will result in the significant redistribution of sand which will significantly alter the beach profile.
- b. All sand moved or redistributed due to beach maintenance activities shall be returned to a location within the Critical Dune Areas.
- c. It is prohibited to display on or adjacent to any public beach any sign, marker, or warning, or make or allow to be made any written or oral communication which states that the public beach is private property or represent in any other manner that the public does not have the right of access to and from the public beach or the right to use the public beach as guaranteed by the Open Beaches Act and the common law right of the public.
- d. The following methods are approved beach maintenance measures:
  1. Raking of any or all beach areas at any or all times of the year with tractor drawn rakes with rake height adjusted so as to allow rake teeth to draw man made and naturally occurring debris into piles or windrows, while at the same time minimizing the amount of sand moved from the beach into the stockpiles. Piles or windrows may then be relocated using a tractor-mounted front-end loader. Stockpiles or windrows of raked debris may be placed at the seaward toe of the primary dune seaward of the vegetation line and within ~~twenty~~ 20-feet of the vegetation line. All sand/debris collected with debris as a part of this maintenance process shall remain in the stockpile or windrow. A dune protection permit shall be required from the Development Services Department of Planning and Community Development;
  2. Maintenance of beach parking areas at Stewart Beach Park shall be allowed if

scraped sand is placed seaward of the mean high tide line and a dune protection permit is obtained from the Development Services Department ~~of Planning and Community Development~~. In addition, sand collected from beach parking areas at Apffel Park may be stockpiled and used for dune enhancement projects within the critical dune areas if the sand is obtained from accreting beaches and with proper Texas Parks and Wildlife permits, notwithstanding (6)b above;

3. During periods of heavy seaweed influx, as identified by the Park Board of Trustees of the City of Galveston, maintainers, bulldozers, boxblades, loaders, dumptrucks and other equipment designed for moving large quantities of material may be employed on a short term basis to remove seaweed and other debris collected with the seaweed from the tide line into stockpiles or windrows as described above. Blade height for all equipment shall be set only low enough to remove the majority of the seaweed and other debris and to minimize the movement of sand from the beach to the windrows or stockpiles.

All sand/seaweed collected with seaweed and other debris as a part of this maintenance process shall remain in the stockpile or windrow until such time as the sand/seaweed may be used for dune enhancement projects within critical dune areas with the proper Texas Parks and Wildlife permits. These activities will be monitored by the City of Galveston Development Services Department ~~of Planning and Community Development~~ to identify any potential adverse impacts that may aggravate erosion and said activities shall be modified to preclude such adverse impacts. A dune protection permit from the Development Services Department ~~of Planning and Community Development~~ shall be required;

4. On the beach, seaward of the vegetation line, and landward of the high tide mark, a check-mark trench, 30-inches at the deepest point may be opened up by a maintainer or bull dozer and seaweed and any other debris accumulated within the seaweed windrow or stockpile, may be pushed into the trench and covered with beach sand from the trench cut. The trench method may only be used during emergency situations, where it will not remain open unsupervised or at any time after dusk, where no vehicular or pedestrian traffic will be endangered and where access to the beach will not be prohibited by this action. These activities will be monitored by the City of Galveston Development Services Department ~~of Planning and Community Development~~ to identify any potential adverse impacts that may aggravate erosion and said activities shall be modified to preclude such adverse impacts. A dune protection permit from the Development Services Department ~~of Planning and Community Development~~ shall be required; and,
5. Solid waste containers may be mounted on posts at necessary intervals to encourage beach users to deposit waste and debris in the containers provided.

#### **(7) Beach User Fees**

- a. The City of Galveston, or the Park Board of Trustees of the City of Galveston if designated by City Council, may charge beach users a fee in exchange for providing services to beach users in general. (Authority: Sec. 26-54, Galveston City Code).
- b. The City of Galveston, or the City of Galveston Park Board of Trustees ~~of the city~~ if designated by City Council, may only impose a beach user fee if the fee is reasonable, based on the cost of providing public services and facilities directly to the public beach, which may include administrative, accounting and planning

activities necessary for the implementation of such public services and facilities, parking, public health and safety, environmental protection and other matters directly related to the public beach.

- c. A new or amended beach user fee shall be preceded by a State approved beach user fee plan submitted by the City. Administrative costs cannot exceed 10% percent of beach user fee revenues.
- d. Revenues from beach user fees may be used only for beach-related services as defined by state law.
- e. Accounting and administration of all beach user fees shall be in conformance with those policies promulgated in state law.
- f. In order to establish and maintain beach related services and facilities for the preservation and enhancement of access to and from and safe and healthy use of public beaches by the public, vehicles may be charged in the following beach areas:

- 1. **Stewart Beach:** A recreational and amusement park located in the city on the East Beach:

The boundaries of Stewart Beach shall be defined as follows:

Eastern Boundary: Michael Menard Grant

Western Boundary: Fence on the eastern boundary of the children's playground established by Galveston County on Block No. 66

Northern Boundary: Southerly right-of-way line of Seawall Boulevard

Southern Boundary: Line of ordinary high tide of the Gulf of Mexico

- i. Fee: ~~eight dollars~~ \$8.00 maximum per vehicle

Restricted Use Area to the east of the Park, extending ~~two thousand six hundred forty~~ 2,640 linear feet.

- ii. A maximum ~~twenty five~~ \$25.00 season pass available.

- 2. **R.A. Apffel Park:**

The boundaries of R. A. Apffel Park shall be defined as follows:

All that property comprising 390.629 acres, more or less, more particularly described in Deed to City of Galveston from the United States of America, dated April 9, 1975, recorded in the Deed Records of Galveston County in Book 2567, page 606 et seq. All that property, comprising 64.5 acres, more or less, described in Deed to City of Galveston from the United States of America, dated April 15, 1976, recorded in the Deed Records of Galveston County, Texas, in Book 2687 at page 11 et seq. All of that property, comprising 211 acres of land, more or less, described in that certain instrument of July 30, 1976, by and between the City of Galveston and the United States Coast Guard, Eighth District.

- i. Fee: ~~eight dollars~~ \$8.00 maximum for entry, per vehicle.

- ii. A maximum ~~twenty five dollar~~ \$25.00 season pass available.

- 3. **Dellanera Park.** 10901 FM 3005 (7 Mile Road at FM 3005) Provides space for approximately ~~eighty four~~ 84 overnight vehicles and ~~three hundred~~ 300 day use

camp sites. The fee schedule for Dellanera Park is ~~eight dollars~~ \$8.00 per each vehicle, with the charge for the overnight vehicle spaces based upon services provided.

Please note, existing beach access parking shall remain, until modifications regarding the pedestrian walkway at AP 4 and improvements to AP5 are completed.

4. **Seawall Beach Urban Park:** A recreational beach urban park with beach-related services and amenities.

The boundaries of the Seawall Beach Urban Park shall be defined as follows:

Eastern Boundary: 1<sup>st</sup> Street

Western Boundary: 103<sup>rd</sup> Street

Northern Boundary: Northerly right-of-way line of Seawall Boulevard

Southern Boundary: The Gulf of Mexico

- i. Fee: ~~eight dollars~~ \$8.00 maximum per-vehicle per-day, through a metered system, permit system or a combination. (A maximum ~~twenty-five dollar~~ \$25.00 annual pass available.)

- ii. Parking Rates:

South side of the Urban Park (adjacent to the seawall structure) shall not exceed ~~eight dollars~~ \$8.00 per vehicle daily.

North side of Urban Park (northerly right-of-way of Seawall Boulevard), first ½ hour is at no charge, ~~one dollar~~ \$1.00 per hour, not to exceed ~~two dollars~~ \$2.00 per hour in beach access zones, not to exceed ~~eight dollars~~ \$8.00 per vehicle per day.

5. **East and West areas of the island, as described in Appendix A:** A maximum daily fee of ~~eight dollars~~ \$8.00. A minimum ~~of twelve dollars~~ \$12.00 and a maximum ~~twenty-five dollar~~ \$25.00 annual pass available.

- g. The City ~~of Galveston~~ and the Park Board of Trustees of the City ~~of Galveston~~ shall work towards establishing a state-approved system for reciprocity of fees and fee privileges with Galveston County.

## **(8) Beach Access**

According to the Texas General Land Office (GLO), preservation and enhancement of public beach use and access is site specific and best addressed by local governments. The City has authority and responsibility for providing public safety and emergency services within its corporate limits.

The City has adopted, pursuant to state law, a beach access plan for the public beaches within its corporate limits. Changes to the City's beach access plan require the approval and adoption by rule of the GLO. For special events, federal, state, and local law enforcement agencies have determined the need for traffic control plans in the interest of public safety.

- a. Special Events – For any planned event that will eliminate public beach parking, along the southern right-of-way adjacent to a public beach, for ½ mile or greater and will continue for more than six (6) consecutive hours, the City of Galveston shall provide beach access in accordance with the following provisions:



1. Reserved.

2. Reserved

3. 1. The City Manager or designee, is authorized to take whatever measures are reasonably necessary to implement a public safety and traffic control plan, for an event that affects public beach access. The plan may include provisions that temporarily eliminate, rededicate, or use for other purposes, parking spaces normally available for public beach access, to the extent such spaces do not occupy the public beach easement. "Other purposes" may include a fee-for-entry area.

4. 2. Not less than sixty (60) days prior to the event, the City of Galveston shall provide the following, to the GLO:

i. (a) the number of parking spaces needed to replace the parking spaces being removed by the respective event;

ii. (b) the location of the alternative parking areas where the public would be required or able to park their cars to gain access to the beach;

iii. (c) information depicting how the public will be informed of the alternative parking arrangements during the events. The public must be notified that normally available parking has been eliminated and directed to the alternative parking locations;

iv. (d) the method of transportation that will be provided for the public to and from the public beach. If shuttle buses are used to transport beach-goers from alternative parking locations, the schedule for the buses will be specified;

v. (e) a statement by the City containing an affirmative finding that the alternative parking plan preserves the public's right to access the beach. The City should evaluate the alternative parking plan based on its current access plan, the impacts to public beach access, and methods for mitigating those impacts and make the affirmative finding; and,

vi. (f) The implementation dates of the traffic control plan, public safety plan, and alternate parking plan.

5. Not less than thirty (30) days prior to the event, the GLO and the OAG shall provide comments, written objections or not comment on the alternative parking plan. The City of Galveston shall review and consider all comments received from the GLO and OAG, for requested revisions to the alternative parking plan. However, the City of Galveston reserves the right to amend the alternative parking plan based upon public safety needs as determined by the Chief of Police or designee.

6. In the event the respective special event continues outside of planned implementation dates, the City of Galveston will provide the necessary traffic control with regard to public safety, and will provide notice of such measures to the GLO and OAG. In such an event, the City of Galveston will implement and maintain the guidelines of Section 29-90 29-2 (o)(8) during special events that alter public beach access and parking as described in subsection (a).

**(p) Penalties**

31 TAC 15.9, establishes the following penalties:

- (1) Any violation of any provision of this Chapter (Chapter 29 of the City Code) shall be unlawful and a misdemeanor offense punishable by a fine not exceeding Five Hundred (\$500.00) Dollars. Each day a violation of this Chapter continues shall constitute a separate offense.
- (2) Any person who violates the Dune Protection Act, the Open Beaches Act or a City of Galveston Permit condition established by this regulation is liable to the General Land Office for a civil penalty of not less than Fifty (\$50.00) Dollars nor more than One Thousand (\$1,000.00) Dollars per violation per day. Each day the violation occurs or continues is considered a separate violation.
- (3) Any violation of a Permit requirement, dune protection and beach access plans, the Dune Protection Act, the Open Beaches Act, Title 31 TAC, §§15.1 - 15.10, Management of the Beach/Dune System, shall be reported by the City of Galveston to the General Land Office within twenty-four 24 hours.

(q) **Master Planned Developments**

The City of Galveston may adopt a separate ordinance for Master Planned Developments as defined in 31 TAC, §15.32. All requirements of Subchapter A, The Dune Protection Act, The Open Beaches Act and the City of Galveston Zoning Standards Land Development Regulations shall be followed.

(r) **Repeal of Conflicting Ordinances - Severability**

If any section, subsection, paragraph, sentence, clause, phrase or work in this Section or the application thereof to any person or circumstance, be held invalid, such holding shall not affect the validity of the remaining portion of this order. In the case of a conflict between this Section and any other City Ordinances, the Ordinance containing higher standards for dune protection will prevail. In addition, the requirement to obtain a Beachfront Construction Certificate and/or a Dune Protection Permit supersedes the previous requirement for a Specific Use Permit for regulated activities in accordance with this Section.

## APPENDIX A: BEACH ACCESS AND PARKING PLAN

(a) **Beach Access Points (Described From East To West)**

**AP 1: Apffel Park**

On-beach: parking within Park boundaries for beach user fee  
free parking outside of Park boundaries  
Off-beach: n/a  
Amenities: currently provided

**AP 1(A): Beachtown Development**

On-beach: n/a  
Off-beach: minimum of two 2 parking lots containing a minimum of two hundred ninety-five 295 spaces  
Two 2 dedicated pedestrian pathways for public use  
Amenities:



**AP 1(B): Palisade Palms**

On-beach: n/a  
Off-beach: parking lot, minimum of ~~one hundred eight~~ 108 spaces  
~~One~~ 1 dedicated pedestrian pathways for public use  
Amenities:

**AP 1(C): area west of the Islander East to eastern boundary of Stewart Beach Park**

On-beach: restricted use area, minimum width of 2,640 linear feet on the eastern end of the park  
Off-beach: ~~One~~ 1 dedicated pedestrian pathway for public use  
Amenities: n/a

**AP 2: Stewart Beach**

On-beach: parking within Park boundaries for beach user fee  
free parking available  
restricted use area, minimum width of 2,640 linear feet on the eastern end of the park  
Off-beach: n/a  
Amenities: currently provided

**AP 3: Seawall Beach Urban Park**

On-beach: n/a  
Off-beach: street parking, north and south sides of Seawall Boulevard  
minimum of 10% free parking spaces (approximately 230 spaces total distributed throughout the Seawall Beach Urban Park)  
Amenities: future

**AP 4: End of Seawall**

On-beach: n/a  
Off-beach: parking lot, minimum 150 spaces  
pedestrian pathway from parking area to beach  
Amenities: n/a

**AP 5: Dellanera RV Park**

On-beach: n/a  
Off-beach: overnight campsites only  
wheelchair accessible dune walkover  
Amenities: currently provided

**AP 6: Pocket Park #1**

On-beach: parking via 7 ½-Mile Road (109<sup>th</sup> Street), minimum width of 1690 linear feet  
Off-beach: parking lot  
Amenities: n/a

**AP 7: Sunny Beach Subdivision**

On-beach: parking via 8-Mile Road, minimum width of 1,300 linear feet  
Off-beach: n/a  
Amenities: n/a

**AP 8: Beachside Village Subdivision**

On-beach: n/a  
Off-beach: street parking, minimum of 148 spaces on Sea Butterfly Street  
3 dedicated pedestrian access ways for public use  
Amenities: n/a

**AP 9: Pocket Park #2, Escapes! Condominiums**

On-beach: n/a  
Off-beach: parking lot, minimum of 352 spaces  
1 wheelchair accessible dune walkover for public use  
1 dedicated pedestrian pathway for public use  
Amenities: currently provided

**AP 10: 10-Mile Road/Hershey Beach Subdivision**

On-beach: parking via 10-Mile Road, minimum width of 1,065 linear feet  
Off-beach: parking lot, minimum 58 spaces  
Amenities: n/a

**AP 11: Spanish Grant Subdivision**

On-beach: n/a  
Off-beach: street parking, minimum of 46 spaces on Spanish Grant Boulevard  
median  
3 dedicated pedestrian pathways for public use  
Amenities: n/a

**AP 12: Bermuda Beach Subdivision**

On-beach: parking via Pabst Road, minimum width of 150 linear feet  
Off-beach: street parking, minimum of 211 parking spaces, throughout subdivision  
2 dedicated pedestrian pathways for public use  
Amenities: n/a

**AP 13: Pocket Park #3**

On-beach: n/a  
Off-beach: parking lot, minimum of 273 parking spaces  
wheelchair accessible dune walkover for public use  
Amenities: currently provided

**AP 14: 11-Mile Road**

On-beach: parking via 11-Mile Road, minimum width of 300 linear feet  
Off-beach: n/a  
Amenities: n/a

**AP 15: Palm Beach Subdivision/Pirates Beach West Subdivision**

On-beach: n/a  
Off-beach: street parking throughout subdivisions

3 dedicated pedestrian pathways for public use (Palm Beach)

4 dedicated pedestrian pathways for public use (Pirates Beach West)

Amenities: n/a

**AP 15(A): Pirates Beach Subdivision (Ord 07-051)**

On-beach: n/a

Off-beach: street parking throughout subdivisions

14 dedicated pedestrian pathways for public use

Amenities: n/a

**AP 15(B): Palm Beach Subdivision (Ord 07-051)**

On-beach: n/a

Off-beach: street parking throughout subdivisions

3 dedicated pedestrian pathways for public use

Amenities: n/a

**AP 15(C): Pirates Beach West Subdivision (Ord 07-051)**

On-beach: n/a

Off-beach: street parking throughout subdivisions

4 dedicated pedestrian pathways for public use

Amenities: n/a

**AP 16: 13-Mile Road**

On-beach: parking via 13-Mile Road, minimum width of 640 linear feet

Off-beach: n/a

Amenities: n/a

**AP 17: 15-Mile Road**

On-beach: parking via 15-Mile Road, minimum width of 150 linear feet

Off-beach: n/a

Amenities: n/a

**AP 18: 16-Mile Road**

On-beach: parking via 16-Mile Road, minimum width of 1,000 linear feet

Off-beach: n/a

Amenities: n/a

**AP 19: Karankawa Beach**

On-beach: n/a

Off-beach: street parking, minimum of 27 spaces on Habla and Glei Streets

2 dedicated pedestrian pathways for public use

Amenities: n/a

**AP 20: Indian Beach**

On-beach: n/a

Off-beach: street parking, minimum of 200 spaces on East and West Devaca

4 dedicated pedestrian pathways for public use

Amenities: n/a

**AP 21: Kahala Beach Estates, Addition #1**

On-beach: n/a

Off-beach: street parking, minimum of 59 spaces on Kahala Drive East

2 dedicated pedestrian pathways for public use  
Amenities: n/a

**AP 22: Silverleaf Resorts**

On-beach: n/a  
Off-beach: parking lot, minimum of 43 spaces  
1 dedicated pedestrian pathway for public use  
Amenities: n/a

**AP 23: The Dunes of West Beach**

On-beach: n/a  
Off-beach: street parking, minimum of 172 spaces on Shores Drive  
2 dedicated pedestrian pathways for public use  
Amenities: n/a

**AP 24: Sandhill Shores Subdivision (Map Sheet W-3)**

On-beach: n/a  
Off-beach: street parking, minimum of 208 spaces on Sandhill Drive  
2 dedicated pedestrian pathways for public use  
Amenities: n/a

**AP 25: Gateway Boulevard – Sea Isle Subdivision**

On-beach: parking via Gateway Boulevard, minimum width of 330 linear feet  
Off-beach: n/a  
Amenities: n/a

**AP 26: San Jacinto Street – Sea Isle Subdivision**

On-beach: parking via San Jacinto Street, minimum width of 150 linear feet  
Off-beach: n/a  
Amenities: n/a

**AP 27: “Sea Isle” parking area**

On-beach: n/a  
Off-beach: parking lot, minimum of 88 spaces  
1 dedicated pedestrian pathway for public use  
Amenities: n/a

**AP 28: Sea Isle Subdivision and Terramar Beach Subdivision**

On-beach: n/a  
Off-beach: street parking, minimum of 610 spaces on Kennedy/Gulf Drive  
dedicated pedestrian pathways for public use throughout subdivisions  
Amenities: n/a

**AP 29: Isla Del Sol Subdivision**

On-beach: n/a

Off-beach: parking lot, minimum 25 spaces (located north of FM 3005, via Isla Del Sol Drive)

Amenities: n/a

**AP 30: Gulf Boulevard, Isla Del Sol Subdivision**

On-beach: parking via Gulf Boulevard, minimum width of 150 linear feet

Off-beach: n/a

Amenities: n/a

**AP 31: Terramar Drive, Terramar Beach Subdivision**

On-beach: parking via Terramar Drive Boulevard, minimum width of 300 linear feet

Off-beach: n/a

Amenities: n/a

**AP 32: Pocket Park #4**

On-beach: n/a

Off-beach: parking lot  
1 dedicated pedestrian pathway for public use

Amenities: n/a

**AP 33: 2<sup>nd</sup> Street, Bay Harbor Subdivision**

On-beach: parking via 2<sup>nd</sup> Street, minimum width of 300 linear feet  
seasonal access to the west (one-way driving west to east)

Off-beach: n/a

Amenities: n/a

**AP 34: Miramar Subdivision**

On-beach: seasonal access via AP 35 at Half Moon Beach (one-way driving, west to east)

Off-beach: parking lot, minimum of 60 spaces via FM 3005  
1 dedicated pedestrian pathway for public spaces

Amenities: n/a

**AP 35: Half Moon Beach Subdivision and Stavanger Beach Subdivision**

On-beach: seasonal access to the east  
unrestricted, vehicular access to the west to AP 36: Salt Cedar Avenue

Off-beach: n/a

Amenities: n/a

**AP 36: Salt Cedar Avenue**

On-beach: unrestricted, vehicular access to the east to AP 35: Half Moon

Beach  
Off-beach: n/a  
Amenities: n/a

**AP 37: Playa San Luis Subdivision**

On-beach: n/a  
Off-beach: street parking, minimum of 88 spaces throughout subdivision  
4 dedicated pedestrian pathways for public use  
Amenities: n/a

**AP 38: Pointe San Luis 1 (western boundary of Playa San Luis subdivision)**

On-beach: n/a  
Off-beach: parking lot, minimum of 100 spaces\*  
25 reserve parking spaces dedicated in the event of erosion\*  
1 dedicated pedestrian pathway for public use\*  
Amenities: n/a

*\* Please note, beach access modifications will not occur until substantial physical improvements occur.*

**AP 39: Pointe San Luis 2**

On-beach: n/a  
Off-beach: parking lot, minimum of 100 spaces\*  
1 wheelchair accessible dune walkover for public use\*  
Amenities: future, as part of planned development

*\* Please note, beach access improvements will not occur until substantial physical improvements occur.*

**AP 40: Pointe San Luis 3**

On-beach: n/a  
Off-beach: parking lot, minimum of 100 spaces\*  
25 reserve parking spaces dedicated in the event of erosion\*  
1 dedicated pedestrian pathway for public use\*  
Amenities: n/a

*\* Please note, beach access modifications will not occur until substantial physical improvements occur.*

**AP 41: Pointe San Luis 4 (toll bridge area)**

On-beach: seasonal access provided, minimum width of 1,200 linear feet\*  
unrestricted, vehicular access, minimum width of 3,230 linear feet\*  
Off-beach: n/a  
Amenities: pedestrian area designated by bollard placement to the north of

vehicular access areas

*\* Please note, beach access modifications will not occur until substantial physical improvements occur.*

Please note, the names of developments ~~found within the City of Galveston's Beach Access Plan reflect the current project name at December 21, 2004. the time of the original Ordinance adoption. It should be noted that developments~~ and/or projects may change ownership and name at a future date, but such changes will not alter beach access required in accordance with the City's adopted plan.

**(b) Regulated beach areas:**

Except as otherwise permitted herein, it shall be unlawful for any person to drive, operate or park any motor vehicle in, on or upon any part of the following described public beaches bordering on the Gulf of Mexico and situated within the corporate limits of the City of Galveston with the exception of emergency vehicles, beach cleaning and maintenance and safety patrolling:

- (1) Upon East Beach, being that area extending from the western boundary of Apffel Park to the eastern boundary of Stewart Beach Park, at all times;
- (2) Within the boundaries of Stewart Beach Park, with the exception of those areas designated for parking, restricted use access, and/or as described within Section A of Appendix A;
- (3) Upon the beach extending from Stewart Beach to the western end of the seawall structure at all times; and,
- (4) Upon any area of the beach, unless otherwise provided for by traffic control measures, such as, but not limited to bollards and signage, and as described in Section A of Appendix A;

**SECTION 53.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by a final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

**SECTION 6.** All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.



**SECTION 7.** In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

**SECTION 8.** This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM,

\_\_\_\_\_  
DONNA M. FAIRWEATHER  
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its Regular Meeting held on September 10, 2015, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston on \_\_\_\_\_, 2015.

\_\_\_\_\_  
Secretary for the City Council  
of the City of Galveston