

CERTIFICATE FOR ORDINANCE

ORDINANCE 93-4

THE STATE OF TEXAS  
COUNTY OF GALVESTON  
CITY OF THE VILLAGE OF JAMAICA BEACH

We, the undersigned officers of said City, hereby certify as follows:

1. The City Council of said City convened in REGULAR MEETING ON THE 16TH DAY OF AUGUST, 1993, and the roll was called of the duly constituted officers and members of said City Council, to-wit:

- |                    |                 |
|--------------------|-----------------|
| Mayor              | Kenneth Dennis  |
| Alderman           | Willis Cooke    |
| Alderman           | Scott Hamby     |
| Alderman           | Catherine Huser |
| Alderman           | John Ryder      |
| Alderman           | Paul Schmidt    |
| Alderman           | Sharon Turnley  |
| City Administrator | Terisa White    |
| City Secretary     |                 |

and all of said persons were present, except the following absentees: all members were present, thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written

ORDINANCE  
AUTHORIZING THE ADOPTION AND IMPLEMENTATION OF DUNE PROTECTION AND BEACH ACCESS PLANS WITHIN THE CITY OF THE VILLAGE OF JAMAICA BEACH, TEXAS

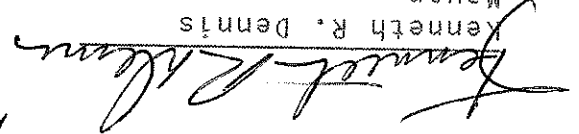
was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said Ordinance be passed; and after due discussion, said motion carrying with it the passage of said Ordinance, prevailed and carried by the following vote:

AYES: Alderman Willis Cooke, Alderman Scott Hamby, Alderman Catherine Huser, Alderman John Ryder, Alderman Paul Schmidt

NOES: None

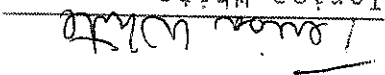
Mayor

Kenneth R. Dennis



City Secretary

Terisa White



SIGNED AND SEALED this 16th day of August, 1993.

4. That the Ordinance is in full force and effect after the approval of said Ordinance by the State of Texas Attorney General's Office and General Land Office.
3. That the Mayor of said City has approved, and hereby approves, the aforesaid Ordinance; that the Mayor and the City Secretary of said City have duly signed said Ordinance; and that the Mayor and the City Secretary of said City hereby declare that their signing of this Certificate shall constitute the signing to the attached and following copy of said Ordinance for all purposes.
2. That a true, full, and correct copy of the aforesaid Ordinance passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that said Ordinance has been duly recorded in said City Council's minutes of said Meeting; that the above and foregoing paragraph is a true, full, and correct excerpt from said City Council's minutes of said Meeting pertaining to the passage of said Ordinance that the persons named in the above and foregoing paragraph are the duly chosen, qualified, and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the aforesaid Meeting, and that said Ordinance would be introduced and considered for passage at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose; and that said Meeting was open to the public, and public notice of the time, place, and purpose of said Meeting was given, all as required by Vernon's Ann. Civ. St. Article 6252-17, as amended. Notice was also published three times in the newspaper with the largest circulation in the County not less than one week nor more than three weeks before the date of said Meeting. Notice was given to the General Land Office not less than one week nor more than three weeks before the hearing.

Dune Protection and Beach Access Plan  
City of  
Village of Jamaica Beach

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COASTAL DEVELOPMENT

STATEMENT OF PURPOSE AND INTENTION

Jamaica Beach is on an island in the Gulf, and is commonly subjected to extremes in such natural hazards as storm, flood and shoreline erosion. To combat these hazards, Jamaica Beach developed this Ordinance.

The Open Beaches Act and the Dune Protection Act require the 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 effects 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 Use 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. It 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), Sec. 63.001, et seq.

In the event of a conflict between these Zoning Standards, Federal Laws, the Open Beaches Act; Dune Protection Act; Title 31, Part 1, Chapter 15, Subchapter A, Sections 15.1 - 15.10, and General Land Office, Federal and State regulations shall prevail.

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

Amenities - Any nonhabitable major structures including swimming pools, bath-houses, 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 underground storage tanks, and similar structures.

Backdunes - The dunes located landward of the 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 area North of the Mean Low Water Line of the Gulf of Mexico and South of the Line of Vegetation as protected by V.A.T.C.S. Natural Resources Code, Chs. 61 - 63: Open Beaches Act Provisions.

Beach System - The land from the Line of Mean Low Water 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.

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.

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 improvement" 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 coppice mound, primary dune area and areas extending landward to a point that includes all dunes, swales, sandflats and marshes within a dune complex.

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.

Dune - (Critical) - 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 marked by an abrupt change in slope landward of the dry beach. The term includes coppice mounds, foredunes, dunes comprising the foredune ridge, backdunes, swales, and man-made vegetated mounds. 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. 15.3.. 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.

Dune Permitting Area - The dune area and an area extending 75 feet landward from the North toe of the dunes, swales, sand-flats and marshes within a Dune Complex.

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

Dune Protection Line - A line located 25 feet landward from the North toe of the Critical Dune Area. Where no dunes exist, the line shall connect 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. 15.3. Construction is not permitted seaward of the Dune Protection Line except as defined under "Construction of Dune Walkovers" and as defined under "Beachfront Construction and Dune Protection Requirements", Section 2, a, b, and c.

Effect or Effects - "Effects" include: Direct Effects - those impacts on public beach use and access, on critical dune area, 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 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.

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 purpose of this Ordinance, the establishments listed in Part I, Division D, Major Group 20, Industry Group Number 209, Industry Numbers 2091 and 2092 are not considered "Industrial Facilities".

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

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 Act, Art. 6701d, Texas Revised Civil Statutes Annotated.

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

Person - An individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, the United States Government, the 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, 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 ability of the technology or technique. The City shall also consider the cost of the technology or technique.

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

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.

Seaward of a Dune Protection Line - The area between a Dune Protection Line and the Line of Mean High Water.

Seawall - An erosion response structure that is specifically designed to withstand wave forces.

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.

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.

Wetlands - Areas that support plant species that tolerate wet or

saturated soils, and, therefore, fall within the regulatory jurisdiction of the Corps of Engineers Section 404 Permit Program.

Wetlands, Freshwater - Non-tidal wetlands found on Galveston Island. These wetlands are not subject to tidal influence though they may be flooded by storm-driven marine waters or develop saline characteristics because of evaporation or wind-blown salts.

Wetlands, Estuarine - The estuarine wetlands are defined as all wetlands that are subject to daily tidal action, or are located in the marine waters.

REQUIREMENT FOR PERMIT

Authority: Jamaica Beach is authorized by delegation in the Galveston County Dune Management and Beach Access Plan to adopt Dune Protection and Beach Access Plans within its jurisdiction, consistent with Title 31. Natural Resources and Conservation, Part 1, Chapter 15, Subchapter A, Section 15.1 - 15.10, and as the City may enter into interlocal cooperation contracts for the administration of this program under the Interlocal Cooperation (Article 4413(32c), Vernon's Texas Civil Statutes). Jamaica Beach shall establish the jurisdictional boundaries of the Dune Protection Line and identify said Critical Dune Line by map.

(1) No person shall engage in the construction of any structure or make an addition or alteration to any structure or sand dune within Jamaica Beach's Dune Permitting Area until he has secured a Beachfront Construction & Dune Protection Permit for such addition, alteration or construction from the Building Official. This prohibition shall not apply to routine repairs, maintenance and upkeep of existing structures which do not enlarge, expand or redesign the existing structure. Final determination of whether repairs, maintenance or upkeep constitutes enlargement, expansion or redesign shall be the responsibility of the Building Official.

(2) No Building Permit shall be issued for any activity within the Dune Permitting Area unless such issuance is approved by the Building Official.

(3) Jamaica Beach shall review its Critical Dune Area every five 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, Jamaica Beach shall review the adequacy of the location of the Critical Dune Area within 90 days after a tropical

storm or hurricane affects Jamaica Beach's Coast or any time significant changes occur.

(a) Structures within the Dune Permitting Areas

All structures built in the Dune Permitting Area must comply with the following requirements:

- (1) Any structure built must be placed on piers, as per FEMA guidelines.
- (2) Piers shall be set and the structure shall be constructed with minimum destruction of the existing terrain and vegetation.
- (3) Entries and exits to or from stairways and landings shall not be located in the Critical Dune Area.

(4) The structure and lot design shall provide for the gradual and dispersed drainage of storm water run-off, such that run-off within the lot approximates natural rates, volumes, and direction of flow. Drain spouts, if any, shall be located so as to collect rainwater and distribute same evenly under the structure. 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.

(b) Vegetation

As promulgated in this Ordinance, 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 Order for Permanent Electrical Power. 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 (2) foot centers with one hundred (100%) percent coverage of the area and a mixture of Bitter Panicum

(Panicum - + Amarum) and Marshy Cordgrass (Spartina Patens) planted on one (1) foot centers with one hundred (100%) percent 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.

(c) Pre-existing Uses: Destruction

Notwithstanding that a use or structure was in existence prior to adoption of this Ordinance, such structure or use shall comply with the provisions hereof including all applicable provisions of the Zoning Standards where such use or structure is expanded by any degree, or moved to a new location, or destroyed in excess of fifty (50%) percent of its value by fire or other catastrophe at the time of such destruction. When a property which has been damaged less than (50%) percent, but its seaward of the Dune Protection Line, and by determination by the Building Official or Designee, the planned development will damage or deplete the Critical Dune Area, such reconstruction of the development shall require a Beachfront Construction & Dune Protection Permit.

(d) Dune Walkovers

Construction of Dune Walkovers shall meet the following standards:

(1) A dune walkover shall not exceed four (4) feet in width, the deck or floor of which shall be constructed at a height above the dune of not less than the width of said walkover.

(2) Except with respect to paired posts constructed on each side of the walkover, posts shall be placed at intervals no closer than six (6) feet.

(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 allow rain and sand to pass through the decking.

(6) The walkover must start at the northern boundary of the Critical Dune Area and shall end on the beach,

approximately ten (10) feet seaward of the vegetation line. Dune walkovers may not impede or restrict access to the public beach.

(7) All walkovers built in public areas shall be constructed with two (2) handrails.

(8) That all walkovers shall be constructed according to Southern Building Code Standards.

(9) It shall be the duty of the property owner, pursuant to the requirements of this Ordinance to keep and maintain said dune walkover in good condition (repaired and maintained).

(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.

(11) All dune walkover construction, improvement or repair must be permitted through the office of the Building Official.

(e) Beachfront Construction and Dune Protection Requirements

(1) For all proposed construction (large- and small-scale), within the Dune Permitting Area, applicants shall submit the following items and information:

- a. A complete application.
- 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.
- 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.
- 4. proposed roadways and driveways, parking, dune walkovers, and proposed landscaping activities on the tract.
- 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.

- c. A topographic map depicting any and all proposed changes to the terrain; indicate on topo map any and all changes to the natural or man-made environment within the Critical Dune Area.
- d. The approximate percentage of existing and finished open spaces (those areas completely free of structures).
- e. The floor plan and elevation view of the structure proposed to be constructed or expanded and showing all plumbing plans.
- f. The approximate duration of the construction.
- 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 the dunes and

swales, wetlands, and proposed contours for the final grade.

h. 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.

(2) For all proposed construction (large & small-scale), located seaward of the Dune Protection Line, the applicant shall submit the following additional items and information to the Building Official:

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 within the Critical Dune Area.

b. Proof of financial capability to mitigate or compensate for adverse effects on dunes and dune vegetation (i.e., 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 (i.e., Upton-Jones coverage in the National Flood Insurance Program).

c. A copy of the FEMA "Elevation Certificate".

(3) For all proposed large-scale construction (construction greater than 5,000 Sq. Ft. and/or habitable structures greater than two habitable stories in height), within the Dune Permitting Area, 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.

c. A person proposing to conduct an activity for which a Beachfront Construction & Dune Protection Permit is required shall submit a complete application to the Building Official. The Building Official shall forward the complete application, including any associated materials, to the GLO, the Attorney General's Office and the Corps of Engineers, if necessary. The applicant, any documents associated with the appli-



cation, 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 20 days before the city is first scheduled to act on the permit or certificate.

(f) Termination of Permit

(1) A permit may be terminated if:

- a. The permit is inconsistent with this Ordinance 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.
- c. "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 Building Official in making the permitting decision because the permittee did not provide information regarding the site condition in the original application.
- d. A permit or certificate automatically terminates if construction comes to lie within the boundaries of the public beach by artificial means or by natural causes.
- e. Unless conditions under Section (d) of these standards apply, work approved under this permit shall be completed within one (1) year from the date of the permit except Master Planned Developments which shall be completed in two (2) years. If work is not completed in this time period, it will be necessary for the applicant to reapply for a Beachfront Construction Permit.

BEACHFRONT CONSTRUCTION & DUNE PROTECTION PERMIT STANDARDS

Authority: Title 31, Natural Resources & Conservation, Part I, Chapter 15, Subchapter A, Section 15.4, requires Jamaica Beach to comply with the following standards in issuing, denying or conditioning a Beachfront Construction & Dune Protection Permit for those areas within the Critical Dune Area.

Before issuing a permit within the Dune Permitting Area the Building Official must find that:

- (1) The proposed activity is not a prohibited activity as defined in these standards.
- (2) 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 Ordinance.

(3) 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 these Zoning Standards.

(4) 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.

(5) The proposed activity complies with any applicable requirements of: Requirements for Beachfront Construction & Dune Protection Permits and Management of the Public Beach of this Ordinance.

(6) Structures located in the area from the Dune Protection Line landward to the northern boundary of the Dune Permitting Area will have a slab not to exceed 5% of the footprint of the habitable structure and a hard surface driveway approved by the Building Official.

The request will be considered inconsistent with this Ordinance, 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 Ordinance.

b. Functionally supports or 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

(2) 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, and Federal Governments.

- b. 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 per year, and the project does not cause any adverse effects on the sediment budget.
- a. Relocating sand which lies seaward of the Dune Protection Line.

(1) 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:

The Building Official shall not issue a permit authorizing the following actions within and seaward of the Dune Permitting Area.

(g) Prohibited Activities

- e. Fails to comply with Requirements for Beachfront Construction & Dune Protection Permits.
- 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.
- c. Closes any existing public beach access or parking area, unless equivalent or better public access or parking is established.

- (3) 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.
- (4) Creating dredged spoil disposal sites, such as levees and weirs without the appropriate local, state, and federal permits.
- (5) Constructing or operating industrial facilities not in full compliance with all relevant laws and permitting requirements prior to the effective date of this Ordinance.
- (6) Operating recreational vehicles; dune buggy, marsh buggy, minibike, 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, Section 63.002(4), Texas Natural Resource Code).
- (7) Mining in the dunes.
- (8) Constructing concrete slabs or other impervious surfaces seaward of the Dune Protection Line.
- (9) Depositing trash, waste, or debris including inert materials such as concrete, stone, and bricks that are not part of the permitted on-site construction.
- (10) Constructing cisterns, septic tanks, and septic fields seaward of any structure serviced by the cisterns, septic tanks, and septic fields, with the exception of structures located in subdivisions

The following activities are prohibited within the area seaward of the Dune Protection Line without a Beachfront Construction & Dune Protection Permit:

(14)

3. A determination as to the applicability of (1) and (2) above, will be made by the Planning Commission.

2. 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.

1. Failure to repair the structure will cause unreasonable hazard to a public building, public road, public water supply, public sewer system, or other public facility immediately landward of the structure.

b. Repairing, enlarging or improving existing erosion response structures within 200 feet landward of the Vegetation Line or within the Critical Dune Area, except in the following circumstances.

a. Retaining walls are prohibited within 200 feet landward of the Line of Vegetation or within the Critical Dune Area.

(13) Erosion response structures as per Title 31, Natural Resources & Conservation, Part I, Ch. 15, Subchapter A, Section 15.5;

(12) A permit will not be issued that does not comply with FEMA regulations, including prohibiting man-made alteration of sand dunes within Zone on the City's flood insurance rate maps which would increase the potential for flood damage.

(11) Detonating bombs or explosives.

Ordinance.  
plated before the enactment of this

- a. Parking of any motor vehicle except in an area approved by the City Council for parking of a motor vehicle.
- b. 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.
- g. Horse riding.
- h. Operation of any motor vehicle except for necessary maintenance and clean up.
- i. Mowing.
- j. Paving of any type.

(15) 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, the following activities, seaward of the Dune Protection Line, shall be prohibited:

- a. Removal, relocation, or movement of sand or dunes except for the clearing of dune walkover steps.
- b. Construction of dunes.
- c. Removal of vegetation.
- d. Placement of fill within the Critical Dune Area.

k. Creation of roads, trails or paths except those access roads approved by Jamaica Beach as part of its access plan.

(h) Technical Standards

Authority: Title 31, Natural Resources & Conservation, Part I, Chapter 15, Subchapter A, Section 15.4, requires Jamaica Beach to comply with the following technical standards when issuing, denying or conditioning a Beachfront Construction & Dune Protection Permit within the Critical Dune Area.

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 Building Official shall not approve the application for the construction as proposed.

(1) The activity shall not result in the potential for increased flood damage to the proposed construction site or adjacent property.  
(2) The activity shall not result in run-off or drainage patterns that aggravate erosion on or off the site.

(3) The activity shall not result in significant changes to dune hydrology.  
(4) The activity shall not result in adverse affects on dune complexes or dune vegetation.

(5) The activity shall not significantly increase the potential for washovers or blowouts to occur.

(6) Other considerations when determining whether to grant a permit:

- a. Cumulative & indirect effects of the proposed construction on all dunes & dune vegetation within the Critical Dune Area or seaward of that area.
- 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. The local historical erosion rate as determined by the University of Texas at Austin, Bureau of Economic Geology, and whether the proposed construction may alter dunes and dune vegetation in a manner that may aggravate erosion.
- e. The applicant's mitigation plan for any unavoidable adverse effects on dunes and dune vegetation and the effectiveness, feasibility, and desirability of any proposed dune reconstruction and revegetation.
- 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.



(1)

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) Avoiding the impact altogether by not taking a certain action or parts of an action.

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(4) Compensating for the impact by replacing resources lost or damaged.

The above sequence shall be followed as per guidelines promulgated in Title 31, Natural Resources and Conservation, Part 1, General Land Office, Chapter 15, Coastal Area Planning, Subchapter A, Management of the Beach/Dune System, Section 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 Building Official is not authorized to issue the Permit.

### SPECIAL STANDARDS FOR ERODING AREAS SOUTH OF THE DUNE PROTECTION LINE

Authority: Title 31, Natural Resources and Conservation, Part 1, Chapter 15, Subchapter A, Section 15.6, requires Jamaica Beach to comply with the following standards for eroding areas, when issuing, denying or conditioning a Beachfront Construction & Dune Protection Permit.

An eroding area is defined as follows: A portion of the shoreline which is experiencing an historical erosion rate of greater than one foot per year based on published data of the University of Texas at Austin, Bureau of Economic Geology. In addition to those standards previously promulgated in this Ordinance, in eroding areas, the City shall require:

(1) That structures located on property adjacent to the public beach be designed for feasible relocation (ie. on piers).

(2) Prohibit paving or altering the ground below the lowest habitable floor for those properties located in eroding

areas (gravel or crushed limestone may be used to stabilize driveways).

- (3) Require financial assurance to fund eventual relocation or demolition of the proposed structure (ie. through proof of Upton-Jones coverage in the National Flood Insurance Program).

#### MANAGEMENT OF THE PUBLIC BEACH

Authority: Title 31, Natural Resources & Conservation, Part 1, Chapter 15, Subchapter A, Section 15.7, requires Jamaica Beach to apply the following standards in issuing, denying or conditioning Beachfront Construction & 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 200 feet 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.

- (3) Requirements for Beach Nourishment Projects:

- a. The project must be consistent with the City's dune and beach policies;

- b. The sediment to be used must be of effective grain size, mineralogy, and quality or the same as the existing beach material, may be used for a sub-base for dune enhancement projects subject to the approval of the City Council;

- c. The material must be free of toxins as defined in Volume 40 of the Code of Federal Regulations, Part 302.4 and fauna as determined by applicable, relevant, and appropriate requirements for toxicity standards established by the local, state, and federal governments;

- d. 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;

Jamaica Beach 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 beach.

Jamaica Beach 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 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.

Authority: Title 31, Natural Resources & Conservation, Part I, Chapter 15, Subchapter A, Section 15.7, requires Jamaica Beach to regulate pedestrian or vehicular access, traffic and parking on the beach only in a manner that preserves or enhances existing public right to use and have access to and from the beach.

(j) Public Beach Use and Access

Restored or man-made dunes will be regulated under the same standards as natural dunes.

1. hard or engineered structures.
  2. non-biodegradable items.
  3. fine clay or silty sediments.
  4. toxic materials as previously defined in this Ordinance.
9. The City may allow restoration of dunes on the public beach up to 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 60 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:
- e. The removal of sediment will not have adverse impacts on flora and fauna;
  - f. There will be no adverse effects caused from transporting the nourishment material;

a. Jamaica Beach, or its designee, may charge beach users

(7) Beach User Fees:

- 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.
- b. All sand moved or redistributed due to beach maintenance activities shall be returned to a location within the Critical Dune Areas.
- a. Jamaica Beach shall prohibit beach maintenance activities which will result in the significant redistribution of sand or which will significantly alter the beach profile.

(6) Beach Maintenance Activities:

- (1) Parking requirements for all new or replanted developments on or adjacent to the beach, will be calculated at one (1) space for each 15 linear feet of beach frontage.
- (2) Signs shall be displayed in a conspicuous location identifying access and parking for the public beach.
- (3) All parking and access plans must be consistent with General Land Office regulations as promulgated in Title 31, Natural Resources and Conservation, Part I. General Land Office, Chapter 15. Coastal Area Planning, Subchapter A. Management of the Beach/Dune System, Section 15.7 and Section 61.015. Natural Resources Code.
- (4) Jamaica Beach is granted authority to regulate animals on public beaches by Subchapter D of Section 61 of the Texas Natural Resources Code (Section 61.122b).
- (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 Jamaica Beach City Codes.
- (6) Beach Maintenance Activities:

If any section, subsection, paragraph, sentence, clause, phrase or word in this Ordinance, or the application thereof to any person or circumstance, be held invalid, such holding shall not affect the

REPEAL OF CONFLICTING ORDINANCES - SEVERABILITY

Any verified violation of a Permit requirement, Dune Protection and Beach Access Plan, the Dune Protection Act, the Open Beaches Act, Title 31, Part I, Chapter 15, Subchapter A, Sections 15.3 - 15.10, Management of the Beach/Dune System, shall be reported by the City to the General Land Office within 24 hours.

Any person who violates the Dune Protection Act, the Open Beaches Act or a Permit Condition established by this regulation is liable to the General Land Office for a civil penalty of not less than \$50 nor more than \$1000 per violation per day. Each day the violation occurs or continues is considered a separate violation.

Authority: Title 31, Natural Resources & Conservation, Part I, Chapter 15, Subchapter A, Section 15.9, establishes the following penalties.

PENALTIES

- e. Accounting and administration of all beach user fees shall be in conformance with those policies promulgated in Title 31, Natural Resources and Conservation, Part I, Chapter 15, Subchapter A, Section 15.8.
  - d. Revenues from beach user fees may be used only for beach-related services as defined by Title 31, Natural Resources and Conservation, Part I, Chapter 15, Subchapter A, Section 15.8 and Section 63.053, Natural Resources Code.
  - c. A new or amended beach user fee shall be preceded by a State approved beach user fee plan submitted by the City.
  - b. Jamaica Beach, or its designee, 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 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 beach services.
- a fee in exchange for providing services to beach users in general.

validity of the remaining portion of this order. In the case of a conflict between this Ordinance and any other City Ordinances, the Ordinance containing higher standards for Dune Protection will prevail.

MASTER PLANNED DEVELOPMENTS

A. "Master Planned Development" means proposed development for which approval is requested by submission of a comprehensive plan containing maps, drawings, narrative, tables, and other information about the proposed use of specific land and/or water including descriptions of uses and use intensities, building and/or site improvement locations and sizes, relationships between buildings and improvements, vehicular and pedestrian access and circulation systems, parking, utility systems, stormwater management and treatment systems, geography, geology, impact assessments, regulatory-approved checklist, and phasing. Information in the master plan may be conceptual or detailed depending on the status of its regulatory approval.

b. At least 60 days prior to acting on a request for approval of a master planned development within the area subject to this Ordinance, Jamaica Beach shall send the plan to the General Land Office and the Attorney General's office for review.

c. When acting on a request for approval of a master planned development, the City Council shall consider:

1. The development's potential effects on dunes, dune vegetation, public beach use and access, and the applicant's proposal to mitigate for such effects throughout the construction.
2. The contents of the plan.

3. Whether any component of the development, such as installation of roads or utilities, will subsequently require a permit or a certificate.

d. If the City Council determines that any development contemplated by the plan complies with all requirements of this Ordinance, a permit and/or certificate for the development may be issued.

e. If the City Council determines that any development contemplated by the plan does not comply with the requirements of this Ordinance and therefore can not be approved without an amendment to this Ordinance, the City

Council shall not issue a permit and/or certificate, but shall submit the plan to the General Land Office and the Attorney General's Office for approval as an amendment to this Ordinance.