

**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 (City) 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 **Dune Protection and Beach Access Plan (Plan)** to incorporate ordinary land use planning standards and procedures.

The Open Beaches Act and the Dune Protection Act require the General Land Office (GLO) 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.~~ **requirements of the Texas Natural Resources Code, Chapter 61: Open Beaches Act; Chapter 63: Dune Protection Act; and the Texas Administration Code, Title 31: Natural Resources and Conservation, Part 1: General Land Office Rules, Chapter 15, Subchapter A, §15.1-§15.17, et seq.**

In the event of a conflict between these standards, federal laws, Open Beaches Act, Dune Protection Act, ~~Title 31, Part 1, Chapter 15, Subchapter A, Sections 15.1 – 15.10,~~ and General Land Office **Rules**; the federal and state regulations shall prevail.

DEFINITIONS

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

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

All-terrain Vehicle - Has the meaning assigned by §502.001, Transportation Code.

Amenities - Any nonhabitable 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, underground storage tanks, and similar structures.

Applicant - Any person applying to a local government for a permit and/or certificate for any construction or development plan.

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 (water) of the Gulf of Mexico and south of the line of vegetation~~ **extending inland from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico** as protected by ~~V.A.T.C.S. Texas~~ **V.A.T.C.S. Texas** Natural Resources Code, (~~Chs. 61–63: Open Beaches Act Provisions~~) **Chapter 61 and Chapter 63.**

Beach/Dune System - The land from the Line of Mean Low Tide (Water) of the Gulf of Mexico to the landward limit of dune formation.

Beachfront Construction Certificate - Document issued certifying that the proposed construction is consistent with the City's Dune Protection and Beach Access Plan. If the construction is inconsistent with the City's Plan, inconsistencies will be specified as required by the Open Beaches Act **§61.015, Texas Natural Resources Code.**

Beach Maintenance - The cleaning or removal of debris from the beach by handpicking, raking, or mechanical means.

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

Beach-related Services - Reasonable and necessary services and facilities directly related to the public beach which are provided to the public to ensure safe use of and access to and from the public beach, such as vehicular controls, management, and parking (including acquisition and maintenance of off-beach parking and access ways); sanitation and litter control; lifeguarding and lifesaving; beach maintenance; law enforcement; beach nourishment projects; beach/dune system education; beach/dune protection and restoration projects; providing public facilities such as restrooms, showers, lockers, equipment rentals, and picnic areas; recreational and refreshment facilities; liability insurance; and staff and personnel necessary to provide beach-related services. Beach-related services and facilities shall serve only those areas on or immediately adjacent to the public beach.

Beach User Fee - A fee collected by a local government 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.

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 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.

Critical Dune Areas - Those portions of the beach/dune system as designated by the General Land Office that are located within 1,000 feet of mean high tide of the Gulf of Mexico that contain dunes and dune complexes 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.

Cumulative Impact - The effect on beach use and access, on a critical dune area, or an area seaward of the Dune protect 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 - 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.

~~(Critical) Dune Areas~~ — Those portions of the beach/dune system as designated by the General Land Office that are located within 1,000 feet of mean high tide (water) of the Gulf of Mexico that contain dunes and dune complexes 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. The two terms are used interchangeably in this code.

Dune Complex or Dune Area - 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 contain swales.

Dune Permitting Area – Area as identified by the General Land Office §15.2, **Texas Administrative Code**. Specifically, an area extending 75' seaward of the dune protect line.

Dune Protection and Beach Access Plan or Plan - A local government's legally enforceable program, policies, and procedures for protecting dunes and dune vegetation and for preserving and enhancing use of and access to and from public beaches, as required by the Dune Protection Act and the Open Beaches Act.

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

Dune Protect Line - A line located 75 feet landward from the north toe of the Critical dune area. Jamaica Beach establishes a buffer area of 25 feet landward of the north toe of the dunes. No construction is permitted in this area without mitigation sequence and as defined under "Construction of Dune Walkovers." Where no dunes exist, the line shall connect the nearest Dune protect line on the East with the nearest dune protect line on the West. This term is used synonymously with "Dune Protect Line" as defined by the regulations of the General Land Office at 31 T.A.C. Sec. §15.2, **Texas Administrative Code**. Construction is not permitted seaward of the dune protect line except as defined under "Construction of Dune Walkovers" and as defined under Requirements for Permit (a) (b) and (c).

Dune Protection Permit or Permit - The document issued to authorize construction or other regulated activities in a specified location seaward of a dune protect line or within a critical dune area, as provided in the §63.051, Texas Natural Resources Code.

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 protect 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 protect 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 Plan** 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.

Eroding Area - A portion of the shoreline which is experiencing an historical erosion rate of greater than two feet per year based on published data of the University of Texas at Austin, Bureau of Economic Geology. Local governments may establish an "eroding area boundary" in beach/dune plans; this boundary shall be whichever distance landward of the line of vegetation is greater: 200 feet, or the distance determined by multiplying 50 years by the annual historical erosion rate (based on the most recent data published by the University of Texas at Austin, Bureau of Economic Geology).

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. **This agency administers the National Flood Insurance Program and publishes the official flood insurance rate maps.**

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, breaches 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.

Habitable Structure Perimeter or Footprint - The area of a lot covered by a structure used or usable for habitation. The habitable structure perimeter or footprint does not include incidental projecting eaves, balconies, ground-level paving, landscaping, open recreational facilities (for example, pools and tennis courts), or other similar features.

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 Plan, 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". See Appendix, Exhibit A.

Local Government or City - A municipality, county, any special purpose district, any unit of government, or any other political subdivision of the state.

Large-scale Construction - Construction activity greater than 5,000 square feet or habitable structures greater than two stories in height. Both the area beneath the lowest habitable level of an elevated structure and a cupola (i.e. "widow's walk") with an area of 400 square feet or less on the top of the second habitable story are not considered stories for the purpose of this section. 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. The line of vegetation is 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, §61.016 and §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.

Material Changes - Changes in project design, construction materials, or construction methods or in the condition of the construction site which occur after an application is submitted to a local government or after the local government issues a permit or certificate. Material changes are those additional or unanticipated changes which have caused or will cause adverse effects on dunes, dune vegetation, or beach access and use, or exacerbation of erosion on or adjacent to the construction site.

Meteorological Event - Atmospheric conditions or phenomena resulting in avulsion, erosion, accretion, or other impacts to the shoreline that alter the location of the line of vegetation.

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

National Flood Insurance Act - 42 United States Code, §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.

Open Beaches Act - Texas Natural Resources Code, §61.001, et seq.

Owner or Operator - Any person owning, operating, or responsible for operating commercial or industrial facilities.

Permit or certificate condition - A requirement or restriction in a permit or certificate necessary to assure protection of life, natural resources, property, and adequate beach use and access rights (consistent with the Dune Protection Act) which a permittee must satisfy in order to be in compliance with the permit or certificate.

Permittee - Any person authorized to act under a permit or a certificate issued by a local government.

Person - An individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, state, 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.

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

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.

Project Area - The portion of a site or sites which will be affected by proposed construction.

Public Beach - ~~As used in this Ordinance Plan, "Public Beach" is defined in the Texas Natural Resources Code, Sec. 61.013(c).~~ Shall mean any beach bordering on the Gulf of Mexico that extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or such larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time immemorial as recognized by law or custom, as defined in §61.013(c), Texas Natural Resources Code.

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.~~

Recreational Vehicle - A dune buggy, marsh buggy, minibike, trail bike, jeep, all-terrain vehicle, recreational off-highway vehicle, or any other mechanized vehicle used for recreational purposes.

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.

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

Seaward of a Dune Protect Line - The area between a dune protect line and the line of mean high tide (water).

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

Small-Scale Construction - Construction activity less than or equal to 5,000 square feet of habitable structures less than or equal to two 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.

Surveying - The measurement of dimensional relationships as a method of finding mean high tide (water), mean low tide (water), elevations, the dune permitting line 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.

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 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)~~ **the requirements of the Open Beaches Act, the Dune Protection Act, and the Texas Administrative Code, Title 31: Natural Resources and Conservation, Part 1, Chapter 15, Subchapter A, §15.1-§15.10, et seq.** Jamaica Beach shall establish the jurisdictional boundaries of the dune protect line and identify the 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 Beachfront Construction and Dune Protection Permitting Area until he has secured a Dune Protection Permit and Beachfront Construction Certificate for such addition, alteration or construction from the Building Official. This prohibition shall not apply to routine repairs, maintenance and upkeep of existing structures that won't enlarge, expand or redesign the existing structures, except in the case of existing erosion response structures, as defined in ~~General Land Office Rules §15.6(c), Texas Administrative Code.~~ Final determination of whether repairs, maintenance or upkeep constitutes enlargement, expansion or redesign shall be the responsibility of the Building Official.
- (2) No 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 dune protect line every five (5) years to determine whether the line is adequately located to achieve the purpose of preserving critical dune areas, as identified by the General Land Office. In addition to the five (5) year review, Jamaica Beach shall review the adequacy of the location of the dune protect line within **ninety** (90) days after a tropical storm or hurricane affects ~~Jamaica Beach's Coast~~ **the city's coast** or anytime 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) Construction that is likely to adversely affect dunes or dune vegetation may only be undertaken utilizing the mitigation sequence.
- (2) Any structure built must adhere to FEMA's construction standards for flood hazard areas, as adopted in ~~Ordinance 87-1~~ **City Ordinances.**
- (3) Piers shall be set and the structure shall be constructed with minimum destruction of the existing terrain and vegetation.
- (4) Entries and exits to or from stairways and landings shall not be located within the 25 foot buffer area landward of the north toe of the critical dune area except when approved using the mitigation sequence,
- (5) 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 not increase natural drainage to the public beach.

(b) VEGETATION

In accordance with GLO Rule §15.7(e) and as promulgated in this ~~Ordinance Plan~~, unless otherwise unavoidable during construction, removal or destruction of vegetation within the area seaward of the dune protect line is prohibited. Any area where vegetation is 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 dunes, whether caused by man or nature, shall be restored and revegetated before the Issuance of Order for Permanent Electrical Power. If no electrical power is needed and site is not restored and/or revegetated, penalties shall be assessed in accordance with ~~Ordinance 774~~ **City Ordinances** or legal proceedings implemented after proper notification to the offender.

- (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 as stated in GLO Rule §15.4(f)(5) and §15.4(g)(5). The Building Official is responsible for determining if and when compensation is complete and will notify state agencies of completion of compensation.

(c) PRE-EXISTING USES: DESTRUCTION

Notwithstanding that a use or structure was in existence prior to adoption of this ~~Ordinance Plan~~, 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 is seaward of the dune protect line, and by determination by the Building Official, as stated in this ~~ordinance Plan~~ and GLO Rule §15.4(a), (b) and (c) that the proposed development will damage or deplete the critical dune area, such reconstruction of the development shall require Beachfront Construction Certificate & Dune Protection Permit. In no event shall a permit or certificate be issued, as stated in GLO Rule §15.6(d).

(d) DUNE WALKOVERS

~~Dune walkovers will be permitted only as outlined in GLO Rule 15.7(f).~~

~~Construction of dune walkovers shall meet the following standards and shall be constructed so that they do not interfere with or restrict public use of the beach at normal high tide (water):~~

Construction of dune walkovers (including other similar beach access mechanisms), which extend onto the public beach, will only be permitted if it meets the following standards, as outlined in GLO Rule §15.7(g):

- (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 (1) 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) All walkovers shall be constructed according to ~~Southern Building Code Standards~~ **General Land Office guidelines**.
- (9) It shall be the duty at the property owner, pursuant to the requirements of this ~~Ordinance~~ **Plan** 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.~~ **Permittees must relocate walkovers to follow any landward migration of the public beach or seaward migration of dunes using the following procedures and standards:**
 - a. **After a major storm or any other event causing significant landward migration of the landward boundary of the public beach, the city shall require permittees to shorten any dune walkovers encroaching on the public beach to the appropriate length for removal of the encroachment. This requirement shall be contained as a condition in any permit and certificate issued authorizing construction of walkovers. The city is required to assess the status of the public beach boundary within 30 days after a major storm or other event causing significant landward migration of the public beach. After the assessment, the city shall inform the GLO of any encroachments on the public beach within ten days of completing the assessment.**
 - b. **In cases where the migration of the landward boundary of the public beach occurs slowly over a period of time or where a dune walkover needs to be lengthened because of the seaward migration of dunes, the permittee shall apply for a permit or certificate authorizing the modification of the structure.**
- (11) All dune walkover construction, improvement or repair must be permitted through the office of the Building Official.
- (12) **Permittees must construct and locate the walkovers in a manner that will not interfere with or**

otherwise restrict public use of the beach at normal high tides.

- (13) Permittees must restrict the walkovers, to the greatest extent possible, to the most landward point of the public beach.
- (14) Permittees must construct dune walkovers in a manner that allows for the growth of dune vegetation and the migration of dunes under the walkovers to the greatest extent practicable.

(e) BEACHFRONT CONSTRUCTION AND DUNE PROTECTION REQUIREMENTS

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

- (1) The name, address, phone number, **if applicable**, fax number, and the name of the property owner, if different from the applicant.
- (2) A complete legal description of the tract and a statement of its size in acres or square feet.
- (3) ~~The site by its legal description, including, where applicable, the subdivision, block, and lot;~~ **An accurate map, site plan, or plat of the site identifying:**
 - a. ~~the site by its legal description, including, where applicable, the subdivision, block, and lot.~~
 - b. ~~the location of the property lines and a notation of the legal description of adjoining tracts.~~
 - c. ~~the location of the dune protection line, the line of vegetation, proposed and existing structures, and the project area of the proposed construction on the tract.~~
 - d. ~~proposed roadways and driveways and proposed landscaping activities on the tract.~~
 - e. ~~the location of any retaining walls, seawalls or any other erosion response structures on the tract and on the properties immediately adjacent to the tract and within 100 feet of the common property line.~~
 - f. ~~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.~~
- (4) ~~The location of the property lines and a notation of the legal description of adjoining tracts;~~ **A description (including location) of the number of proposed parking spaces.**
- (5) ~~The number and location of the structures and whether the structures are amenities or habitable structures;~~ **A description of the proposed structures, the number of structures, and whether the structures are amenities or habitable structures.**
- (6) ~~A description (including location) of proposed roadways and driveways, parking, dune walkovers, and proposed landscaping activities on the tract;~~ **A description (including location) of any existing or proposed walkways or dune walkovers on the tract.**
- (7) The approximate percentage of existing and finished open spaces (areas completely free of structures).

- (8) The floor plan(s) and elevation view of the structure proposed to be constructed or expanded.
- (9) The approximate duration of **the** construction.
- (10) A grading and layout plan identifying all elevations (in reference to the National Oceanographic and Atmospheric datum), existing contours of the project area (including location of dunes and swales), and proposed contours for the final grade.
- (11) **Current color** photographs of the site which clearly shows the current location of the vegetation line and the existing dunes on the tract.
- (12) **A description of** the effects of the proposed activity on the beach/dune system which cannot be avoided if the activity is permitted, including but not limited to, damage to dune vegetation, alteration of dune size and shape, and changes to dune hydrology.
- (13) ~~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;~~ **A comprehensive mitigation plan which conforms with the requirements in GLO Rule §15.4 (relating to Dune Protection Standards) and §15.7 (relating to Local Government Management of the Public Beach) which, at a minimum, 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.**
- (14) **Where a mitigation plan is required, the contact information for all landowners immediately adjacent to the tract and affirmation by the applicant that the adjacent landowners will be provided with notice of the hearing at least 10 days prior to the hearing on the application.**
- (15) Proof **of the applicant's** financial capability to mitigate or compensate for adverse effects on dunes and dune vegetation (submit an irrevocable letter of credit or a performance bond) or to fund eventual relocation or demolition of structures (as through proof of Upton Jones coverage in the National Flood Insurance Program, etc.).
- (16) A copy of the FEMA elevation certificate.
- (17) Additional information shall be required as stated in GLO Rule §15.3(s)(4)(C).

For all proposed large-scale construction, in the dune permitting area, applicants shall submit the following additional items and information:

- (1) If 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.
- (2) In the case of multiple-unit dwellings, the number of units proposed.
- (3) 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.

- (4) The proposed activity's impact on the natural drainage pattern of the site and the adjacent lots.

~~A person proposing to conduct an activity requiring a Beachfront Construction Certificate & Dune Protection Permit shall submit a complete application to the Building Official who will act upon it in the indicated time period. The Building Official shall forward the complete application, including materials required in GLO Rule §15.3(s)(4)(d)(A), to the GLO, the Attorney General's Office and, if necessary, the Attorney General's Office and/or 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 20 days before the city is first scheduled to act on the permit.~~

A person proposing to conduct an activity for which a permit or certificate is required shall submit a complete application to Jamaica Beach. The city shall forward the complete application, notice of public hearing, and any associated material to the General Land Office. The application, hearing notice, any documents associated with the application, and information as to when the decision will be made must be received by the General Land Office no later than ten (10) working days for small-scale construction and thirty (30) working days for large-scale construction before the date of the city's public hearing on the application or when the city is first scheduled to act on the permit or certificate. Jamaica Beach may act on such applications following the public hearing or a decision by the commissioner's court, if the General Land Office received the application within the proper time frame and the state provides comments or does not submit comments on the application to the city.

The General Land Office may submit comments on the proposed activity to the city. The review period for comments of ten (10) working days for small-scale construction and thirty (30) working days for large-scale construction are initiated only after the receipt by the General Land Office of all information required by this section.

~~(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; 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. 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 Dune Protection Permit.~~

- (1) Any dune protection permit or beachfront construction certificate allowing beachfront construction issued by the city pursuant to this Plan shall be voidable under the following circumstances:
 - a. The permit or certificate is inconsistent with GLO Rule §15.3 or the city's Plan at the time the permit or certificate was issued.
 - b. A material change occurs after the permit or certificate is issued.
 - c. A permittee fails to disclose any material fact in the application.
- (2) Permittee must apply for a new permit or certificate in the event of any material changes. Applicant must modify an application disclosing all information relevant to the material changes, if such changes occur before the city issues the permit or certificate.
- (3) A permit or certificate automatically terminates in the event the certified construction comes to lie within the boundaries of the public beach by artificial means or by action of storm, wind, water, or other naturally influenced causes. Nothing in the certificate shall be construed to authorize the construction, repair, or maintenance of any construction within the boundaries of the public beach at any time.
- (4) Dune Protection Permits or Beachfront Construction Certificates shall be valid for one (1) year from the date of issuance, except Master Planned Developments which shall be valid for two (2) years. If work is not completed in this time period, permittee must apply for a new permit or certificate. In addition, the city shall require a permittee to apply for a new permit or a certificate if the proposed construction is changed in any manner which causes or increases adverse effects on dunes, dune vegetation, and public beach use and access within the geographic scope of this Plan.
- (5) For the purpose of maintaining administrative records for permits, certificates, and renewals, if any, the city is required to keep all original application materials submitted by any applicant for three (3) years, as provided in GLO Rule §15.3(u).

BEACHFRONT CONSTRUCTION CERTIFICATE & DUNE PROTECTION PERMIT STANDARDS

~~Authority: Title 31, Natural Resources & Conservation, Part 1, 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. This section provides the standards and procedures the city shall follow in issuing, denying, or conditioning dune protection permits. The city shall protect dunes and dune vegetation from adverse effects resulting directly or indirectly from construction in a critical dune area or seaward of its dune protect line, as cumulatively required by the Dune Protection Act.~~

~~Before issuing a permit within the Dune Permitting Area, the Building Official must find that:~~ Before issuing a Beachfront Construction & Dune Protection Permit, the Building Official shall make the following determinations:

- (1) ~~The proposed activity is not prohibited activity as defined in these standards.~~ The proposed activity is not a prohibited activity, as defined in GLO Rule §15.5 (relating to Beachfront Construction Standards), §15.6 (relating to Concurrent Dune Protection and Beachfront Construction Standards).
- (2) ~~The proposed activity will not materially weaken dunes or materially damage dune vegetation~~

~~seaward of the Dune protect line based on substantive findings as defined in "Technical Standards" of this Ordinance. The proposed activity will not materially weaken dunes or materially damage dune vegetation based on the application of technical standards resulting in substantive findings, as defined in GLO Rule §15.4.~~

- ~~(3) There are no practicable alternatives to the proposed activity that is located seaward of the dune protect line and adverse effects cannot be avoided as provided in the mitigation sequence as outlined in these zoning standards. There are no practicable alternatives to the proposed activity and the impacts cannot be avoided as provided in GLO Rule §15.4(f)(1).~~
- ~~(4) The applicant's mitigation plan, for an activity seaward at the dune protect line, if required, will adequately minimize, mitigate, and/or compensate for any unavoidable adverse effects. The applicant's mitigation plan will adequately minimize, mitigate, and/or compensate for any unavoidable adverse effects, as provided in GLO Rule §15.4(f)(2)-(5), and the applicant has affirmatively demonstrated the ability to mitigate adverse effects on dunes and dune vegetation.~~
- ~~(5) The proposed activity complies with any applicable requirements of: Requirements for Beachfront Construction Certificate & Dune Protection Permit and Management of the Public Beach of this Ordinance. Where mitigation is required, that the applicant has provided landowners immediately adjacent to the tract with notice of the hearing at least ten (10) days prior to the hearing on the application.~~
- ~~(6) No concrete slabs or other impervious surfaces are within 200' landward of the natural vegetation line (concrete slab may be permitted in the described area if it supports and does not extend beyond the perimeter of a habitable structure elevated on pilings and if no walls are erected that prohibit the natural transfer of sand; an impervious surface may be permitted in the described area if it does not exceed 5% of the area of the permitted habitable structure). No concrete slabs or other impervious surfaces within 200 feet landward of the line of vegetation. The city may authorize construction of a concrete slab or other impervious surface beneath a habitable structure elevated on pilings provided the slab will not extend beyond the perimeter of the structure and will not be structurally attached to the building's foundation. The city shall not authorize the construction, outside the perimeter of a habitable structure, of a concrete slab or other impervious surface whose area exceeds 5.0% of the footprint of the habitable structure. The use of permeable materials such as brick pavers, limestone, or gravel is recommended for drives or parking areas.~~

The proposed activity will be considered inconsistent with this ~~Ordinance~~ **Plan**, and therefore, will not be approved if the activity:

- ~~a.~~(1) 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.~~(2) 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 public beach.
- ~~c.~~(3) Closes any existing public beach access or parking area, unless equivalent or better public access or parking is established.
- ~~d.~~(4) 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.

e.(5) Fail to comply with requirements for Beachfront Construction & Dune Protection Permits.

(g) PROHIBITED ACTIVITIES

~~The Building Official shall not issue a permit or certificate authorizing the following actions within and seaward of the Dune Permitting Area.~~ **The Building Official shall not issue a permit or certificate authorizing the following actions within critical dune areas or seaward of that local government's 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:
 - a. ~~Relocating sand which lies seaward of the dune protect line.~~ **Moving sand to a location landward of the critical dune area or dune protect line; and**
 - 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 ~~(1) foot per year~~ **two (2) feet per year**, and the project does not cause any adverse effects on the sediment budget.
- (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.
- (3) ~~Depositing sand, soil, sediment, or dredged spoil seaward of the Dune protect line, which is of an unacceptable mineralogy or grain size when compared to the sediments found on the site.~~ **Depositing sand, soil, sediment, or dredged spoil 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).**
- (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~~ **Plan**.
- (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. (~~§~~63.002(4), Texas Natural Resource Code).
- (7) Mining dunes.
- (8) ~~Constructing concrete slabs or other impervious surfaces seaward of the Dune protect line.~~ **Constructing concrete slabs or other impervious surfaces within 200 feet landward of the line of vegetation. Local governments may authorize construction of a concrete slab or other impervious surface beneath a habitable structure elevated on pilings provided the slab will not extend beyond the perimeter of the structure and will not be structurally attached to the building's foundation. Local**

governments shall not authorize the construction, outside the perimeter of a habitable structure, of a concrete slab or other impervious surface whose area exceeds 5.0% of the footprint of the habitable structure. The use of permeable materials such as brick pavers, limestone, or gravel is recommended for drives or parking areas.

- (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 platted before the enactment of this Ordinance Plan.
- (11) Detonating bombs or explosives.
- (12) A permit or certificate will not be issued that does not comply with FEMA minimum requirements or with Ordinance 87-1 City Ordinance.
- (13) Erosion response structures as per §15.6, Texas Administrative Code.
 - a. Construction affecting natural drainage patterns will not be permitted unless the construction and property design minimizes impacts on natural hydrology and does not cause erosion to adjacent properties, critical dune areas, or the public beach.
 - b. Retaining walls are prohibited within 200 feet landward of the line of vegetation.
 - c. Repairing existing erosion response structures within 200 feet landward of the vegetation line, except in the following circumstances:
 1. Failure to repair the structure, as determined by the Planning Commission, 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.
 2. Failure to repair the structure, as determined by the Planning Commission, will cause unreasonable flood hazard to habitable structures because adjacent erosion response structures will channel floodwaters to the habitable structure.
- (14) The following activities are prohibited within the area seaward of the dune protect line without a Beachfront Construction & Dune Protection Permit:
 - a. Any activity that shall damage, destroy, or remove a portion or all of a sand dune.
 - b. Any activity that shall kill, destroy, or remove any vegetation growing on a sand dune or within a critical dune area.
 - c. Construction of dunes.
 - d. Placement of fill within the critical dune area.
- (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 protect line, shall be prohibited:
 - 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, volleyball nets, showers, barbecues, stables, utilities, or other apparatus.
- f. Horse riding.
- g. Wandering, grazing, or running at large, of animals. (~~Ordinance 77-3~~)(City Ordinance)
- h. Operation of any motor vehicle except for necessary maintenance and clean up.
- i. Mowing.
- j. Paving of any type.
- 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 1, 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 of dunes and material damage of dune vegetation within a critical dune area or seaward of the dune protect 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 runoff 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 effects on dune complexes or dune vegetation;
- (5) The activity shall not significantly increase the potential for washovers or blowouts to occur.
- (6) Factors other than as stated in GLO Rule ~~15.3(s)(7)~~ §15.4(e) to be considered 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 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 **if required**, the Attorney General.

(4) THE MITIGATION SEQUENCE

The Mitigation Sequence shall be used by local governments in determining whether to issue a permit for an activity seaward of the dune protect line, after the determination that no material weakening of dunes or material damage to dunes **or dune vegetation** will occur within critical dune areas or seaward of the dune protect 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.~~ **The General Land Office recognizes that the time necessary to restore dunes and dune vegetation varies with factors such as climate, time of year, soil moisture, plant stability, and storm activity. The permittee shall be deemed to have failed to achieve compensation if a 1:1 ratio has not been achieved within three (3) 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 PROTECT 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 (1) 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:~~ Local governments with jurisdiction over eroding areas shall follow the standards provided in GLO Rule §15.4 (relating to Dune Protection Standards) and §15.5 (relating to Beachfront Construction Standards). The General Land Office shall supply information for or assist Jamaica Beach in determining eroding areas and the landward boundary of eroding areas. In addition, because of the higher risk of damage from flooding or erosion in such areas, the city shall:

- (1) ~~That structures be elevated in accordance with FEMA minimum standards.~~ Require that structures built in eroding areas be elevated on pilings in accordance with FEMA minimum standards or above the natural elevation (whichever is greater).
- (2) Require structures located on property adjacent to the public beach be designed for feasible relocation (i.e. on piers).
- (3) ~~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).~~ Allow paving used under the habitable structure and for a driveway connecting the habitable structure and the street be limited to the use of unreinforced fibercrete in 4 feet by 4 feet sections, which shall be a maximum of four inches thick with sections separated by expansion joists, or pervious materials approved by the Building Official and the driveway width shall be limited to no more than the width necessary to service two (2) vehicles, in that area 25 feet landward of the north toe of the dune to 200 feet landward of the line of vegetation. The city shall assess a "Fibercrete Maintenance Fee" of \$200 to be used to pay for the cleanup of fibercrete from the public beaches should the need arise. Reinforced concrete may be used under the habitable structure and for a driveway connecting the habitable structure and the street in that area landward of 200 feet from the line of vegetation.
- (4) Require financial assurance to fund eventual relocation or demolition of the proposed structure (e.g. through proof of Upton-Jones coverage in the National Flood Insurance Program).
- (5) If consistent with the requirements of National Flood Insurance Program, the Building Official may permit the construction of a storage area or areas with breakaway or louvered walls or for enclosures required by the city building or safety codes.

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, as stated in GLO Rule §15.7(c).
- (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 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.
 - 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.
 - 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.
 - g. 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 GLO approval. Interference with public use of the beach is prohibited.
 - h. Dune reconstruction must approximate the natural formation of dunes and indigenous vegetation must be used. ~~The following methods and materials shall not be permitted:~~
 - i. **The city shall not allow any person to restore dunes using any of the following methods or materials:**
 1. Hard or engineered structures.
 2. ~~Non-biodegradable items.~~ **Materials such as bulkheads, riprap, concrete, or asphalt rubble, building construction materials, and any non-biodegradable items.**
 3. Fine, clayey or silty sediments.
 4. ~~Toxic materials as previously defined in this Ordinance.~~ **Sediments containing 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.**
 5. **Sand obtained by scraping or grading dunes or the beach.**
 - j. Restored or man-made dunes will be protected under the same standards as natural dunes.

(j) PUBLIC BEACH USE AND ACCESS

Authority: Title 31. Natural Resources & Conservation, Part 1, Chapter 15, Subchapter A, Section 15.7, requires Jamaica Beach to regulate pedestrian and 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.

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 §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.

~~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. The street on the south side of State Highway 3005, adjacent to the State Park on Jamaica Beach's eastern boundary, allows access to the beach. Another access point is Buccaneer Drive.~~ For the purposes of this section, beach access and use is presumed to be preserved if the following criteria are met:

- (1) Parking requirements for all new or replatted developments on or adjacent to the beach will be calculated at one (1) space for each 15 linear feet of beach frontage. ~~Parking on or adjacent to the beach is adequate to accommodate one car for each 15 linear feet of beach.~~
- (2) Signs shall be displayed in a conspicuous location identifying access and parking for the public beach. ~~Signs are conspicuously posted which explain the nature and extent of vehicular controls, parking areas, and access points, including access for disabled person.~~
- (3) All parking and access plans must be consistent with General Land Office regulations as promulgated in §15.7, Texas Administrative Code and §61.015, Texas 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 (§61.122b); however, livestock grazing is exempt from the Dune Protection Act.
- (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.~~ Jamaica Beach shall regulate all traffic orders, including but not limited to, pedestrian and vehicular beach access, traffic, signage, obstructions, speed limits 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. The following standards will be observed when regulating access and parking on the beach:
 - a. Jamaica Beach provides two (2) beach access points:
 1. The street on the south side of State Highway 3005, adjacent to the State Park on Jamaica Beach's eastern boundary, allows access to the beach.
 2. Another access point is Buccaneer Drive.
 - b. Disabled access via golf carts is allowable on the beach at any given time.

- c. On-beach Parking Spaces: Jamaica Beach provides a minimum of 111 on-beach parking spaces between the first beach access point that is west of the street on the south side of State Highway 3005, adjacent to the State Park on Jamaica Beach's eastern boundary to the row of existing bollards.
- d. The standard on-beach parking schedule will begin the second Saturday in March every year and end the Tuesday following the first Monday in September. All sections of the beach are open to vehicular traffic Monday-Friday. On the weekends there will be no vehicular traffic on the beach other than designated parking areas from Friday at midnight to Sunday at 6:00 p.m. The following schedules will apply during the holidays:
 1. **Spring Break:** the standard on-beach parking schedule applies.
 2. **Memorial Day:** the weekend parking schedule will apply and will rollover to Monday ending at 6:00 p.m.
 3. **July 4th:** when July 4th falls on a Saturday or Sunday, the weekend parking schedule applies. When July 4th falls on a weekday, vehicular traffic will be restricted beginning at midnight the day before the holiday until 6:00 p.m. of the holiday.
 4. **Labor Day:** the weekend parking schedule will apply and will rollover to Monday ending at 6:00 p.m.

~~(6)~~ BEACH MAINTENANCE ACTIVITIES

- ~~a-~~(1) Jamaica Beach shall prohibit beach maintenance activities which will result in the significant redistribution of sand or which will significantly alter the beach profile or the line of vegetation. ~~Jamaica Beach contracts with the City of Galveston for beach maintenance.~~ Jamaica Beach shall prohibit beach maintenance activities unless maintenance activities will not materially weaken dunes or dune vegetation or reduce the protective functions of dunes.
- ~~b-~~(2) All sand moved or redistributed due to beach maintenance activities shall be returned to a location within the critical dune areas. The General Land Office encourages the removal of litter and other debris by handpicking or raking and strongly discourages the use of machines (except during peak visitation periods which disturb the natural balance of gains and losses in the sand budget and the natural cycle of nutrients).
- ~~c-~~(3) 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.

~~(7)~~ BEACH USER FEES

- ~~a-~~(1) Jamaica Beach may charge public beach users a fee in exchange for providing services to public beach users in general. Currently, no public beach user fee is charged.
- ~~b-~~(2) Jamaica Beach may only impose a public beach user fee in accordance with GLO Rule §15.8(c) based on the cost of providing public services and facilities directly to the public beach.

- ~~e.~~(3) A new or amended beach user fee shall be preceded by a State approved beach user fee plan submitted by the city.
- ~~d.~~(4) Revenues from beach user fees may be used only for beach-related services as defined by ~~Title 31, Natural Resources and Conservation, Part 1, Chapter 15, Subchapter A, Section §15.8, Texas Administrative Code~~ and Section §63.053, Texas Natural Resources Code.
- ~~e.~~(5) Accounting and administration of all beach user fees shall be in conformance with those policies promulgated in ~~Title 31, Natural Resources and Conservation, Part 1, Chapter 15, Subchapter A, Section §15.8, Texas Administrative Code.~~

PENALTIES

Authority: Title 31. Natural Resources & Conservation, Part 1, Chapter 15, Subchapter A, Section 15.9, establishes the following penalties:

- (1) Any person who violates the Dune Protection Act §63.001, the Open Beaches Act §61.013, and General Land Office Rule §15.2, or a permit condition established by this regulation is liable to the GLO for a civil penalty of not less than \$50 or more than \$1000 per violation per day. Each day the violation occurs or continues is considered a separate violation.
- (2) Any violation of a Permit Requirement, Dune Protection and Beach Access Plan, Dune Protection Act, Open Beaches Act, Texas Administrative Code §15.3-15.10 and/or Management of the Beach/Dune System, shall be reported by the city to the GLO within 24 hours.

REPEAL OF CONFLICTING ORDINANCES - SEVERABILITY

If any section, subsection, paragraph, sentence, clause, phrase or word in this ~~Ordinance Plan~~, 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 ~~Ordinance Plan~~ and any other City Ordinances, the ordinance containing higher standards for dune protection will prevail.

MASTER PLANNED DEVELOPMENTS

- ~~A.~~(1) "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.~~(2) At least ~~sixty~~ (60) days prior to acting on a request for approval of a master planned development within the area subject to this ~~Ordinance Plan~~, Jamaica Beach shall send the plan to the General Land Office and, ~~if required~~, the Attorney General's Office for review.
- ~~e.~~(3) ~~When acting on a request for approval of a master planned development, the City Council shall consider:~~ ~~When considering approval of a master planned development or construction plans and setting conditions for operations under such plans, the city shall consider:~~

- 1.a. ~~The development's potential effects on dunes, dune vegetation, public beach use and access, and the applicant's proposal to mitigate for such effects throughout the construction.~~ **The plan'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.b. ~~The contents of the plan.~~ **The contents of the master planned development.**
- 3.c. ~~Whether any component of the development, such as installation of roads or utilities, will subsequently require a permit or a certificate.~~ **Whether any component of the master plan, such as installation of roads or utilities, or construction of structures in critical dune areas or seaward of a dune protect line, will subsequently require a dune protection permit or a beachfront construction certificate. If a dune protection permit or beachfront construction certificate will be necessary, the city shall require the developer to apply for the permit and/or certificate as part of the master plan approval process. This requirement only applies if the city is authorizing activities impacting critical dune areas and public beach use and access under its dune protection and beach access plan.**

d.(4) If the City Council determines that any development, contemplated by the plan complies with all requirements of this ~~Ordinance~~ **Plan**, a permit and/or certificate for the development may be issued;

e.(5) If the City Council determines that any development contemplated by the plan does not comply with the requirements of this ~~Ordinance~~ **Plan**, and therefore, cannot be approved without an amendment to this ~~Ordinance~~ **Plan**, 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~~ **Plan**.

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 amendment to this ~~Ordinance~~ **Plan**.

EXHIBIT A
APPENDIX I

Figure: 31 TAC §15.2(40)

A local government is not authorized to issue a permit or certificate authorizing construction or operation of the industrial facilities listed in this appendix within critical dune areas or seaward of a dune protect line, as provided in §15.4(c)(5) of this title (relating to Dune Protection Standards), with the exception of activities in Part 1, Division D, Major Group 20, Industry Group 209, Industry Numbers 2091 and 2092, as provided in the definition of "industrial facilities" in §15.2 of this title (relating to Definitions). This appendix is taken from the Standard Industrial Classification Manual as adopted by the Executive Office of the President, Office of Management and Budget (1987 ed.).

DIVISION D. MANUFACTURING	
Major Group 20.	Food and kindred products, except Industry Numbers 2091 and 2092
Major Group 21.	Tobacco products
Major Group 22.	Textile mill products
Major Group 23.	Apparel and other finished products made from fabrics and similar materials
Major Group 24.	Lumber and wood products, except furniture
Major Group 25.	Furniture and fixtures
Major Group 26.	Paper and allied products
Major Group 27.	Printing, publishing, and allied industries
Major Group 28.	Chemicals and allied products
Major Group 29.	Petroleum refining and related industries
Major Group 30.	Rubber and miscellaneous plastics products
Major Group 31.	Leather and leather products
Major Group 32.	Stone, clay, glass, and concrete products
Major Group 33.	Primary metal industries
Major Group 34.	Fabricated metal products, except machinery and transportation equipment
Major Group 35.	Industrial and commercial machinery and computer equipment
Major Group 36.	Electronic and other electrical equipment and components, except computer equipment
Major Group 37.	Transportation equipment
Major Group 38.	Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks
Major Group 39.	Miscellaneous manufacturing industries

DIVISION E. TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES

Major Group 49.	Sanitary services (sewerage systems, refuse systems, sanitary services not elsewhere classified)
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MISCELLANEOUS FOOD PREPARATIONS AND KINDRED PRODUCTS

Industrial facilities listed in Industry Number 2091 are not considered "industrial facilities" as defined in §15.2 of this title (relating to Definitions).

2091	Canned and Cured Fish and Seafoods
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Establishments primarily engaged in cooking and canning fish, shrimp, oysters, clams, crabs, and other seafoods, including soups; and those engaged in smoking, salting, drying, or otherwise curing fish and other seafoods for the trade. Establishments primarily engaged in shucking and packing fresh oysters in nonsealed containers, or in freezing or preparing fresh fish, are classified in Industry 2092.

- Canned fish, crustacea, and mollusks
- Caviar, canned
- Chowder, fish and seafood: canned
- Clam bouillon, broth, chowder, juice: bottled or canned
- Codfish: smoked, salted, dried and pickled
- Crab meat, canned and cured
- Finnan haddie (smoked haddock)
- Fish and seafood cakes: canned
- Fish egg bait, canned
- Fish: cured, dried, pickled, salted, and smoked
- Herring: smoked, salted, dried, and pickled
- Mackerel: smoked, salted, dried, and pickled
- Oysters, canned and cured
- Salmon: smoked, salted, dried, canned, and pickled
- Sardines, canned
- Seafood products, canned and cured
- Shellfish, canned and cured
- Shrimp, canned and cured
- Soups, fish and seafood: canned
- Stews, fish and seafood: canned
- Tuna fish, canned

MISCELLANEOUS FOOD PREPARATIONS AND KINDRED PRODUCTS

Industrial facilities listed in Industry Number 2092 are not considered "industrial facilities" as defined in §15.2 of this title (relating to Definitions).

2092	Prepared Fresh or Frozen Fish and Seafoods
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Establishments primarily engaged in preparing fresh and raw or cooked frozen fish and other seafoods and seafood preparations, such as soups, stews, chowders, fishcakes, crabcakes, and shrimpcakes. Prepared fresh fish are eviscerated or processed by removal of heads, fins, or scales. This industry also includes establishments primarily engaged in the shucking and packing of fresh oysters in nonsealed containers.

- Chowders, fish and seafood: frozen
- Crabcakes, frozen
- Crabmeat picking
- Crabmeat, fresh: packed in nonsealed containers
- Fish and seafood cakes, frozen
- Fish fillets
- Fish sticks
- Fish: fresh and frozen, prepared
- Oysters, fresh: shucking and packing in nonsealed containers
- Seafoods, fresh and frozen
- Shellfish, fresh and frozen
- Shellfish, fresh: shucked, picked, or packed
- Shrimp, fresh and frozen
- Soups, fish and seafood: frozen
- Stews, fish and seafood: frozen