

Regulation 30-13

Specific Project Standards for Beaches and the Beach/Dune System

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Table of Contents

A.	Normal Maintenance and Repair of Habitable Structures	1
B.	Construction of New Habitable Structures	1
C.	Additions to Habitable Structures	1
D.	Repair and Renovation of Habitable Structures	1
E.	Replacement or Rebuilding of Habitable Structures	1
F.	Landscaping, Earthmoving and Fill for Landscaping	2
G.	Fences, Lighting, Trash Receptacles, Sidewalks, and Signs	2
H.	Emergency Vehicle Access Ways, Small Wooden Decks, Gazebos and Other Structures Which Enhance Beach Access	3
I.	The Construction and/or Repair of Drives and Parking Lots	4
J.	Installation or Repair of Underground and Overhead Water, Sewer, Gas, Electrical, Telephone Lines and Cable Service Lines	4
K.	Drainage Structures	4
L.	Sand Fences, Minor Beach Renourishment, Dune Revegetation	5
M.	Returning Sand to the Beach/Dune System	6
N.	Erosion Control	6
O.	Sand Dune Management	7
P.	Nonwater-Dependent Structures	8
Q.	Golf Courses	8
R.	Fishing Piers	9

A. Normal Maintenance and Repair of Habitable Structures: Normal maintenance and repair of habitable structures is allowed without notice to the Department. See R.30-5(A)(10) and R.30-1(D)(33).

B. Construction of New Habitable Structures: If any part of a new habitable structure is constructed seaward of the setback line, the owner shall certify to the Department that construction meets the following requirements:

- (1) The structure is located as far landward on the property as practicable.
- (2) That portion(s) of the habitable structure seaward of the setback line is no larger than five thousand square feet of heated space.
- (3) A drawing has been submitted to the Department showing a footprint of the structure on the property, a cross section of the structure, and the structure's relation to property lines and setback lines which affect the property.
- (4) No erosion control structure or device is incorporated as an integral part of the habitable structure pursuant to Section 48-39-290.
- (5) No part of the building is being constructed on the primary oceanfront sand dune or seaward of the baseline or on the active beach.
- (6) When required, all mitigation meets the standards of the Mitigation Policy adopted as part of the State Beachfront Management Plan.

C. Additions to Habitable Structures: Additions located wholly or partially in the setback area are allowed provided the following requirements are met:

- (1) The additions together with the existing structure do not exceed five thousand square feet of heated space seaward of the setback line.
- (2) Additions to habitable structures comply with the conditions of new habitable structures as set forth in R.30-13(B).
- (3) The additions must be located no farther seaward than the existing structure, i.e. must be landward or upward of the existing structure. The linear footage of the structure, parallel to the coast, cannot be increased.
- (4) Additions constructed totally landward of the setback area do not require any notice to the Department.

D. Repair and Renovation of Habitable Structures: Repair and renovation of a habitable structure located wholly or partially in the setback area damaged but not destroyed beyond repair, due to natural or man-made causes is allowed after notice and written documentation to the Department.

E. Replacement or Rebuilding of Habitable Structures: A habitable structure located wholly or partially in the setback area which has been destroyed beyond repair due to natural causes may be replaced or rebuilt provided all of the following requirements are met:

- (1) The total square footage of the replaced structure seaward of the setback line does not exceed the total square footage of the original structure seaward of the setback line.

(2) The linear footage of the replaced structure parallel to the coast does not exceed the original linear footage parallel to the coast.

(3) The replaced structure is no farther seaward than the original structure.

(4) Where possible, the replaced structure is moved landward of the setback line or if not possible, then as far landward as practicable, considering local zoning and parking regulations.

(5) The reconstruction is not seaward of the baseline unless permitted elsewhere in Section 48-39-250 through 48-39-360.

(6) Replacement of a habitable structure destroyed beyond repair due to man-made causes is allowed provided the rebuilt structure is no larger than the original structure it replaces and is constructed as far landward as possible, but the new structure must not be farther seaward than the original structure.

F. Landscaping, Earthmoving and Fill for Landscaping: Seaward of the setback line, the installation of materials and associated amenities, moving of earth and placing of fill to accomplish these installations are allowed provided all of the following requirements are met:

(1) A comprehensive landscaping plan is submitted to and approved in writing by the Department.

(2) The construction of a retaining wall which extends below existing grade will not be allowed;

(3) No sand from the beach shall be used as backfill;

(4) No native plant material growing on the frontal dunes may be disturbed unless it can be demonstrated that the condition of the dune will be improved;

(5) Only native salt tolerant plant species may be planted on dunes and shall be approved by the Department staff;

(6) Adequate measures shall be taken to contain fill and irrigation runoff;

(7) Construction shall not alter or impact existing primary oceanfront sand dunes;

(8) All work shall be in compliance with applicable local ordinances.

G. Fences, Lighting, Trash Receptacles, Sidewalks, and Signs. Seaward of the setback line the placement, maintenance and repair, and replacement of fences, lighting, trash receptacles, sidewalks, and signs are allowed provided all of the following requirements are met:

(1) Construction shall not alter or impact existing sand dunes, dune vegetation, or the beach;

(2) New sidewalks may not exceed six feet in width. New residential or private sidewalks must be constructed of wood. Existing concrete sidewalks attendant to public streets may be replaced within their original footprint;

(3) Trash receptacles (not dumpsters) may be attached to access ways or placed on the beach when the local government determines there is a need for such receptacles;

(4) Signs are limited to only those attached to attendant structures or mail receptacles or informational signs deemed necessary by federal, state, or local government for public health and safety. Advertisements are not allowed except on the walls or roofs of commercial structures;

(5) No fence may be used as a retaining wall;

(6) Any additional lighting seaward of the setback line shall be designed to shield the beach from illumination.

H. Emergency Vehicle Access Ways, Small Wooden Decks, Gazebos and Other Structures Which Enhance Beach Access. Seaward of the setback line the placement, maintenance and repair, and replacement of emergency vehicle access ways, decks, gazebos, and other structures which enhance beach access are allowed provided all of the following requirements are met:

(1) Emergency vehicle access ways shall:

(a) Be constructed at sites which preclude alteration of existing sand dunes and dune vegetation to the maximum extent practicable;

(b) Be constructed above the existing grade except for points of entry and exit;

(c) Be constructed of wood or other approved material.

(d) Be located at least one-half mile from any other vehicle access to the beach unless, after review by the Department, this provision is determined to be unreasonable due to site specific circumstances concerning health and safety needs;

(e) Be approved by the local government with jurisdiction;

(f) Provide for pedestrian access use.

(2) Small wooden decks are allowed provided the following criteria are met;

(a) Be constructed of wood.

(b) Roofs will be allowed.

(c) Not exceed one hundred forty-four square feet inclusive of an associated walkway (this square footage is not included in the five thousand square-foot limitation on habitable structures);

(d) Be limited to no more than one of these structures per lot unless a limit of one would cause an unnecessary hardship as determined by the Department;

(e) These structures may not be constructed on the active beach or over primary oceanfront sand dunes, and if they ever become situated on the active beach they must be removed.

(f) These structures may be attached to the habitable structure provided they are not made an integral part of the habitable structure.

(g) These structures may not be enclosed or screened.

I. The Construction and/or Repair of Drives and Parking Lots. Within the setback area, the construction and/or repair of drives and parking lots is allowed provided all of the following requirements are met:

- (1) On front row lots, new driveways and/or parking lots shall not extend seaward of habitable structures;
- (2) Existing drives and/or parking lots may only be expanded on the landward side;
- (3) No sand from the beach may be used during construction and/or repair;
- (4) No alteration of the primary oceanfront sand dune or its dune vegetation is allowed;
- (5) At the Department's discretion, a Stormwater Management Plan may be required;
- (6) The work shall comply with applicable local ordinances;
- (7) Best Management Practices (BMP's) such as hay bales, silt fences, mulches, or other appropriate measures shall be used as necessary during the construction phase to prevent sedimentation reaching adjacent waters and wetlands. Upon project completion the disturbed areas shall be stabilized as soon as possible with grass or other appropriate vegetative cover;
- (8) No new driveway or parking lot may be constructed seaward of the baseline unless a special permit as provided in Section 48-39-290(D) is obtained.

J. Installation or Repair of Underground and Overhead Water, Sewer, Gas, Electrical, Telephone Lines and Cable Service Lines. Within the setback area the placement, maintenance, repair, and replacement of service lines are allowed provided the following requirements are met:

- (1) All service lines shall be located as far landward as possible on each individual lot;
- (2) Lines, junction boxes, poles, and accessory features will be relocated landward as far as possible in the event there is a need for replacement;
- (3) Dunes allowed to be altered during construction shall be reconfigured and revegetated to preconstruction conditions;
- (4) All work shall be in compliance with applicable local ordinances;
- (5) A comprehensive plan for new or replacement utilities shall be approved in writing by the Department.

K. Drainage Structures. Within the setback area the placement, maintenance and repair, and replacement of drainage structures are allowed provided the following requirements are met:

- (1) For new construction, the structures shall be part of the Department approved storm water management plan or drainage plan which must be submitted either prior to or at the time the permit application is submitted.
- (2) The replacement of drainage structures shall not involve an increase in the size of the existing structures, unless this change is approved by the Department as a part of the Stormwater Management Plan or drainage plan.

(3) Any disturbance to the dunes and dune vegetation shall be restored to pre-project conditions as soon as possible, and the restoration shall be approved by the Department staff.

(4) The drainage structure shall comply with the local drainage plan for the area seaward of the setback line.

(5) New drainage structures may be placed on the beach only if:

(a) Existing structures are eliminated;

(b) No feasible alternative exists.

(6) All work shall be in compliance with applicable local ordinances.

(7) Areas disturbed during construction shall be revegetated to the Department's satisfaction.

L. Sand Fences, Minor Beach Renourishment, Dune Revegetation. In an effort to provide beachfront property owners with passive, low-cost dune stabilization methods, the placement, maintenance and repair, and replacement of sand fencing, dune revegetation, and minor renourishment may be allowed seaward of the setback line under the following conditions (Note: These steps may not be viewed as being undertaken for erosion control but rather as dune enhancement and stabilization measures. Since a broad beach and a healthy dune provide a storm buffer, these methods should aid the natural processes affecting the beach/dune system.

(1) Sand fencing requirements:

(a) The fence material shall be biodegradable.

(b) The fences shall be installed according to plans established by the Department staff.

(c) The fences shall be installed in a manner so as not to impede turtle nesting. The Department may require sand fences be moved or removed entirely if the fences are found to impact turtle nesting activities or, in the Department's opinion, have the potential to impact turtle nesting activities.

(d) The fence shall be placed above the highest up rush of the waves as determined by the Department staff.

(e) The fencing shall not impede public access.

(f) The fence shall be installed with the understanding that this is a temporary measure.

(g) If fence material is damaged, debris shall be removed expeditiously from the beach area by the owner.

(h) If the Department determines that the fence has a detrimental impact to the beach/dune system, it shall be removed by the owner as directed by the Department.

(2) Revegetation requirements: Property owners are encouraged to plant vegetation as a means of stabilizing oceanfront dunes. The roots of plant material tend to bind sand to dunes, while plant foliage serves to trap wind blown sand. Suggested plant varieties include, but are not limited to, American beach grass (*Ammophila breviligulata*), bitter panicum (*Panicum amarum*), and sea oats (*Uniola paniculata*).

(a) Vegetation may be planted any time during the year and shall be planted, irrigated and fertilized according to nursery instructions or the Department's "How to Build a Dune" booklet.

(b) The Department staff shall inspect the site first and determine that there is a need for vegetative stabilization.

(3) Minor renourishment is allowed in an attempt to build and maintain healthy dunes. Minor renourishment requirements are:

(a) Sand shall be compatible in size and grain color, shall be from an upland source, and its use approved in writing by the Department staff.

(b) Minor renourishment shall be performed between November 1 and May 15.

(c) The Department staff shall inspect the site and establish that there is a need for the project.

(d) All projects shall be in compliance with applicable local ordinances.

M. Returning Sand to the Beach/Dune System. Seaward of the setback line sand that has drifted out of this critical area may be returned to it if the following requirements are met:

(1) A description of the proposed work shall be submitted to and approved in writing by the Department prior to any initiation of work;

(2) Work is pursuant to R.30-13(L)(3).

N. Erosion Control.

(1) Jetties and offshore breakwaters interfere with the natural transport of sediment and therefore require special permits. They shall only be permitted after thorough analysis of the project demonstrates that there will be no negative effect on adjacent areas. The following standards shall apply:

(a) A bond may be required to ensure that necessary remedial steps are taken to alleviate any adverse effects on adjacent areas caused by the installation of these structures. These remedial steps may include redesign and reconfiguration of the structures or even complete removal.

(b) A monitoring plan to assess post-project impact on adjacent areas must be approved by the Department prior to the issuance of a permit.

(c) Construction activities shall be scheduled so as not to interfere with nesting and brood-rearing activities of sea birds, sea turtles, or other wildlife species.

(d) Where feasible, jetties shall be designed to provide public recreational fishing opportunities.

(e) The applicant must have written approval from the local government which has jurisdiction in the area where the project is proposed.

(2) Protection of Beaches and Artificial Beach Nourishment: The following requirements apply to the Department's consideration of projects for the renourishment of beaches:

(a) Careful study shall be given to the type (grain size and quality) of material most suitable for nourishment of a particular beach area;

(b) Borrow areas and sand for artificial nourishment shall be carefully selected to minimize adverse effects. Where possible, artificial beach nourishment shall be performed in concert with inlet stabilization or navigation projects;

(c) Dredging in the borrow areas shall not be in conflict with spawning seasons or migratory movements of significant estuarine or marine species. Nourishment of beach areas shall be scheduled so as not to interfere with nesting and brood-rearing activities of sea birds, sea turtles, or other wildlife species;

(d) All policies concerning dredging and filling cited at R.30-12(G) shall be applied to beach nourishment proposals;

(3) Erosion Control Structures or Devices

(a) No new erosion control structures or devices are allowed seaward of the setback line except to protect a public highway which existed as such on June 25, 1990.

(b) No erosion control structures or devices may be incorporated as an integral part of a habitable structure.

(c) Erosion control structures or devices must not be enlarged, strengthened, or rebuilt but may be maintained in their present condition if not destroyed more than the percentage allowed in Section 48-39-290(B)(2)(b)(i), (ii) and (iii). Repairs must be made with materials similar to those of the structure or device being repaired.

(d) Erosion control structures or devices determined to be destroyed more than the percentage allowed in Section 48-39-290(B)(2)(b)(i), (ii) and (iii) must be removed at the owner's expense. Nothing in this section requires the removal of an erosion control structure or device which existed on July 1, 1988, that protected a public highway.

(e) Erosion control structures or devices which existed on June 25, 1990, must not be repaired or replaced if destroyed:

(i) more than eighty percent above grade through June 30, 1995;

(ii) more than sixty-six and two-thirds percent above grade from July 1, 1995, through June 30, 2005.

(iii) more than fifty percent above grade after June 30, 2005. [See R.30-14(D)(3)(c) and (d) for damage assessment.]

O. Sand Dune Management.

(1) Walkways over dunes, as provided in Section 48-39-130(D), shall meet the following requirements:

(a) All components must be constructed of wood;

(b) Have a maximum width of six feet;

(c) Conform with the contour of the dunes with a 2 foot vertical clearance between the surface of the dune and top of the walkway;

(d) Displace no sand in a critical area;

(e) Be constructed with as little environmental damage as possible;

(f) Not be located within fifty feet of another walkway on the same parcel of property;

(g) Be limited to no more than one of these structures per lot unless a limit of one would cause an unnecessary hardship as determined by the Department.

(h) Be shore perpendicular, except as necessary for handicapped access.

(2) Projects to protect, restore, or build dunes shall conform to the following standards:

(a) The use of natural beach vegetation to trap wind blown sand is encouraged. Where pedestrian traffic has destroyed natural vegetation, the use of temporary sand fencing or its equivalent may be permitted.

(b) The construction of a dune by using beach sand and mechanical equipment shall be permitted only for restoration after unusual damage, such as that caused by a hurricane.

(c) Artificial dunes shall not be constructed seaward of the normal spring high-tide line.

(d) Any artificially constructed dunes shall be aligned to the greatest extent possible with existing dune ridges and shall be of the same general configuration as adjacent dunes.

P. Nonwater-dependent Structures. Nonwater-dependent structures, including but not limited to residences, restaurants, motel/hotel facilities, other commercial activities, and parking facilities, have been constructed in the past within the beach/dune system. The siting of new nonwater-dependent structures seaward of the baseline is prohibited unless a special permit is obtained pursuant to Section 48-39-290(D) and R.30-15(F) herein.

Q. Golf Courses.

(1) Golf Courses are allowed seaward of the baseline because they can adjust to a changing shoreline more readily than other types of land uses. The use of sandbags is allowed as temporary protection for golf courses located seaward of the baseline if the golf course existed prior to May 24, 1991 and if the emergency condition conforms with the definition of emergency in Section 48-39-10(U), in accordance with R.30-15.H(1). Sand scraping or renourishment may be used as temporary protection for golf courses in accordance with R.30-15.H(4) and (5).

(2) Specific standards which shall apply are as follows:

(a) Leveling or damaging of dunes or dune fields is prohibited.

(b) Golf courses should be located as far landward as practicable to minimize encroachment into the setback area.

(c) Any lighting seaward of the setback line must be low intensity and adequately shielded to prevent impact on sea turtle nesting.

(d) Measures must be taken to protect the integrity of the primary oceanfront sand dune from foot traffic. These measures may include:

- (i) courses designed in a manner that will minimize adverse effects on the sand dunes;
- (ii) physical barriers such as sand fencing placed at the landward trough of the dune;
- (iii) certain types of vegetation that would discourage pedestrian traffic, or;
- (iv) any other measures the Department may deem necessary.

R. Fishing Piers:

(1) New fishing piers are allowed seaward of the baseline in order to provide public access to our coastal resources.

(2) Specific standards which shall apply to the construction of new piers or the alteration of existing piers are as follows:

(a) New piers must be dedicated to public use. A reasonable fee may be charged to the public but the general public may not be excluded from use.

(b) No restaurant, arcade or other nonwater-dependent structure shall be placed on the pier seaward of the baseline or over the active beach.

(c) The height of the pier stringers and spacing of the piles must be able to accommodate vehicular traffic associated with emergency operations and renourishment projects.