1. Call Meeting To Order

2. Attendance

3. Conflict Of Interest

4. Approval Of Minutes: December 17, 2019

   Documents:

   2019-12-17 PC MINUTES.PDF

5. Request To Address Commission On Agenda Items Without Public Hearings And Non-Agenda Items (Three-Minute Maximum Per Speaker. If Speaking Through A Translator, Six-Minute Maximum Per Speaker)

6. Old Business And Associated Public Hearings

   A. 19ZA-006 Request For A Text Amendment To The Galveston Land Development Regulations, Article 9 Landscaping To Include Protections For Palms. Applicant: City Of Galveston

      Documents:

      19ZA-006 STF PKT3.PDF

7. New Business And Associated Public Hearings

   A. 19BF-084 (Beachtown Galveston East Village, Center Village Reserves, Beachtown Galveston East Village 2nd Replat) Request For A Beachfront Construction Certificate/Dune Protection Permit In Order To Perform Annual Beach Maintenance. Properties Are Legally Described As Follows: Beachtown Galveston East Village (2007), Reserve L (0-12); Center Village Reserves (2007), Pt Of Reserve E6 (6-1); Center Village Reserves (2007), Pt Of Reserve E6 (6-0); Beachtown Galveston East Village 2nd Replat (2015), Reserves I & J TR J-1 (0-19), Subdivisions In The City And County Of Galveston, Texas. Applicant: Tofigh Shirazi Property Owner: Beachtown Galveston Corp.

      Documents:

      19BF-084 · STAFF REPORT · 01.07.20.PDF


      Documents:
Call Meeting To Order

Attendance

Conflict Of Interest

Approval Of Minutes: December 17, 2019

Documents:

19ZA-008 Request For A Text Amendment To The Galveston Land Development Regulations, Article 2 Uses And Supplemental Standards And Article 14 Definitions To Remove The “Gun Shop” Land Use, Modify The “Commercial Amusement, Indoor” And “Commercial Amusement, Outdoor” Land Uses, And Add A New And Unlisted Land Use Of “Shooting Range.” Applicant: City Of Galveston

Documents:

19ZA-008 STF PKT.PDF

Discussion And Action Items

9. Adjournment

I certify that the above Notice of Meeting was posted in a place convenient to the public in compliance with Chapter 551 of the Texas Government Code on January 3, 2020 at 3:00 P.M.

Prepared by: Karen White, Planning Technician

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY’S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TX 77550 (409-797-3510)

MEMBERS OF CITY COUNCIL MAY BE ATTENDING AND PARTICIPATING IN THIS MEETING
CALL MEETING TO ORDER

The meeting was called to order at 3:30 p.m.

ATTENDANCE

Members Present: Jeff Antonelli, Cate Black, Lisa Blair, Bob Brown, Eugene Cook, Jeffrey Hill, Carol Hollaway, CM John Paul Listowski

Members Absent: None

Staff Present: Tim Tietjens, Development Services Director; Catherine Gorman, AICP, Assistant Director/HPO; Janice Norman, Planning Manager; Daniel Lunsford, Planner; Virginia Greb, Assistant Coastal Resource Manager; Karen White, Planning Technician; Donna Fairweather, Assistant City Attorney

APPROVAL OF MINUTES

The December 3, 2019 minutes were approved as presented.

CONFLICT OF INTEREST

None

REQUEST TO ADDRESS COMMISSION ON AGENDA ITEMS AND NON-AGENDA ITEMS (THREE MINUTE MAXIMUM PER SPEAKER)

None

NEW BUSINESS AND ASSOCIATED PUBLIC HEARINGS

BEACHFRONT

19P-062 (14102 West Beach Street) Request for a Beachfront Construction Certificate/Dune Protection Permit in order to construct a single-family dwelling. The property is legally described as Part of the East 62 feet of Lot 92 (92-2), Palm Beach, a Subdivision in the City and County of Galveston, Texas.

Applicant: Chris Brice

Property Owners: Chris and Lauren Brice

Staff presented the staff report.

Chairperson Cate Black opened the public hearing on case 19P-062. Applicant Chris Brice presented to the Commission. The public hearing was closed and the Chairperson called for questions or comments from the Commission.

Bob Brown made a motion to approve case 19P-062 with Staff’s Recommendations. Chairperson Cate Black seconded, and the following votes were cast:

In favor: Antonelli, Black, Blair, Brown, Cook, Hill, Hollaway

Opposed: None

Non-voting participant: CM Listowski (Ex-Officio)

The motion passed.
**LICENSE TO USE**

19P-064 (2201 Market / Avenue D) Request for a License to Use agreement in order to place fire escape stairs in the City of Galveston right-of-way. Property is legally described as M.B. Menard Survey, Lots 6 and 7, Block 502, in the City and County of Galveston, Texas.
Applicant: David Watson, AIA
Adjacent Property Owner: 2201 Market LTD
Easement Holder: City of Galveston

Staff presented the staff report and noted that of seventy-eight (78) notices of public hearing sent, zero (0) had been returned.

Chairperson Cate Black opened the public hearing on case 19P-064. Applicant David Watson, AIA presented to the Commission. The public hearing was closed and the Chairperson called for questions or comments from the Commission.

Carol Hollaway made a motion to approve case 19P-064 with Staff's Recommendations. Vice-Chairperson Jeffrey Hill seconded, and the following votes were cast:

| In favor: | Antonelli, Black, Blair, Brown, Cook, Hill, Hollaway |
| Opposed: | None |
| Non-voting participant: | CM Listowski (Ex-Officio) |

The motion passed.

19P-068 (Adjacent to 120 Island Passage) Request for a License to Use for two front stairs constructed in the right of way. Adjacent property is legally described as Lot 254, Evia Phase Two (2007), a subdivision, in the City and County of Galveston, Texas.
Applicant: James Michael Doggett
Adjacent Property Owners: James Michael Doggett
Easement Holder: City of Galveston

Staff presented the staff report and noted that of ten (10) notices of public hearing sent, two (2) had been returned in favor.

Chairperson Cate Black opened the public hearing on case 19P-068. The public hearing was closed and the Chairperson called for questions or comments from the Commission.

Carol Hollaway made a motion to approve case 19P-064 with Staff's Recommendations. Chairperson Cate Black seconded, and the following votes were cast:

| In favor: | Antonelli, Black, Blair, Brown, Hill, Hollaway |
| Opposed: | Cook |
| Non-voting participant: | CM Listowski (Ex-Officio) |

The motion passed.

**REPLAT**

19P-065 (2627 Avenue O) Request for a replat in order to increase the number of lots from three (3) to four (4). Properties are legally described as Menard Survey Lots 1, 2 and 3, in the Northwest Block 66, Galveston Outlots, in the City and County of Galveston, Texas.
Applicant: Tricon Land Surveying, LLC.
Property Owner: Keith Raybon, RCFT Investments, LLC

Staff presented the staff report and noted that of twenty-one (21) notices of public hearing sent, one (1) had been returned in favor and six (6) had been returned in opposition.

Chairperson Cate Black opened the public hearing on case 19P-065. Applicant Keith Raybon of RCFT Investments, LLC presented to the Commission. For additional presentations to the Commission, please refer to the attached list. The public hearing was closed and the Chairperson called for questions or comments from the Commission.
Chairperson Cate Black made a motion to approve case 19P-065 with Staff’s Recommendations. Vice-Chairperson Jeffrey seconded, and the following votes were cast:

In favor: Antonelli, Black, Blair, Brown, Hill  
Opposed: Cook  
Abstain: Hollaway  
Non-voting participant: CM Listowski (Ex-Officio)

The motion passed.

TEXT AMENDMENT
19ZA-006 Request for a text amendment to the Galveston Land Development Regulations, Article 9 Landscaping to include protections for palms.
Applicant: City of Galveston

Staff presented the staff report.

Chairperson Cate Black opened the public hearing on case 19ZA-006. The public hearing was closed and the Chairperson called for questions or comments from the Commission.

Chairperson Cate Black made a motion to defer case 19ZA-006 until the regular meeting of January 7, 2020 in order to allow staff to add language regarding offenses and restitution. Vice-Chairperson Jeffrey Hill seconded, and the following votes were cast:

In favor: Antonelli, Black, Blair, Brown, Cook, Hill, Hollaway  
Opposed: None  
Non-voting participant: CM Listowski (Ex-Officio)

The motion passed.

19ZA-007 Request for a text amendment to the Galveston Land Development Regulations, Article 9 Landscaping to include additional standards for offenses and restitution for unpermitted tree removal.
Applicant: City of Galveston

Staff presented the staff report.

Chairperson Cate Black opened the public hearing on case 19ZA-007. The public hearing was closed and the Chairperson called for questions or comments from the Commission.

Bob Brown made a motion to recommend approval of case 19ZA-007 with staff’s recommendations and the following changes:

- Add a reference to protection of palms
- Add “per determination by the City Manager or City Arborist” to condition C

Carol Hollaway seconded, and the following votes were cast:

In favor: Antonelli, Black, Blair, Brown, Cook, Hill, Hollaway  
Opposed: None  
Non-voting participant: CM Listowski (Ex-Officio)

The motion passed.

DISCUSSION AND ACTION ITEMS

THE MEETING ADJOURNED AT 4:30 PM
At the December 17, 2019 meeting, the above referenced case was deferred in order for the Staff to add additional language regarding offenses and restitution mimicking the language proposed for Case 19ZA-007 for Significant Trees. Upon further review, the Legal Department has determined that the proposed language for restitution is not enforceable and should not be included.

Staff has made a few edits to the draft, which are highlighted in green in Attachment A:

1. Clarify that a permit is required to remove a significant palm;
2. Remove references to trees; and
3. Clarify that it is a violation to perform activities to significant palms that results in a decline in health or death.

The original staff report is included as Attachment B.
Division 9.600 Palm Preservation

SEC. 9.601 PROTECTION OF EXISTING SIGNIFICANT PALMS

A. Generally. Sites shall be designed to preserve existing palms and palm stands that are considered “significant” as provided in this Section. Palms contribute to Galveston’s appearance as a sub-tropical island, support the tourism industry, and are storm resistant. Mature palms may be of monetary value and can be easily transplanted.

For the purposes of this Division:

1. A palm is defined as any of a family (Palmae synonym Arecaceae) of mostly tropical or subtropical monocotyledonous palms, shrubs, or vines with usually a simple stem and a terminal crown of large pinnate or fan-shaped leaves.
2. Palm height shall be measured from ground level to the base of the growth point.
3. A significant palm shall be considered the following:
   a. Date Palms:
      1. Canary Island Date Palm (Phoenix canariensis) at 8 feet in height;
      2. Phoenix Date Palm (Phoenix dactylifera sylvestri (canariensis)), not including Pygmy Date Palm (Phoenix roebelenii), at 10 feet in height;
   b. Pindo Palm (Butia capitata) at 5 feet in height;
   c. Sabal Palm (Sabal mexicana) at 8 feet in height;
   d. Washingtonia Palm (Washingtonia filifera) at 15 feet in height;
   e. Washingtonia Palm (Washingtonia robusta and crosses) at 20 feet in height;
   f. Blue Hesper (Brahea armata) at 8 feet in height;
   g. Chinese fan (Livistona chinensis) at 8 feet in height; and
   h. Bismarck (Bismarkia nobilis) at 8 feet in height.

4. A significant palm stand is a group of palms that cover a total of at least 10,000 square feet of ground area, regardless of the height of the palms or the shape of the stand.

B. Removal of Significant Palms and Stands of Palms. The City Manager or City Arborist, if applicable, may approve the removal of a significant palm or palm stand if it is demonstrated that the following are being met. It is highly encouraged that, in the case that palm removal is approved, the applicant consider transplanting the palms within the site or providing the palms to an interested third party for transplantation.

1. No reasonable alternative site design at the same development intensity could be approved that:
   a. Would preserve the palm(s);
   b. If large-scale preservation is not possible, would preserve the largest of the palms; or
   c. If protection of the largest palm(s) is not possible, would preserve a greater number of palms than the proposed development design.

2. It is located within 10 feet of an approved building footprint of new construction or addition;
3. It is located within 6 feet of a utility easement and would interfere with the use of the easement as determined by the City Engineer;

4. It is located within 8 feet of an approved outdoor recreation area that by its nature requires the removal of the palms, such as ball fields;

5. It is ordered removed by the City Manager for other emergency reasons;

6. It is being grown and removed for agricultural purposes; or

7. It is certified to the City by an International Society of Arboriculture Certified Arborist, degreed Forester, or determined by the Director of Development Services as having one or more of the following conditions:
   a. Unhealthy or structurally unsound;
   b. Damaged by natural causes beyond the point of recovery;
   c. Diseased beyond the point of recovery;
   d. Poses a threat to the public and must be removed as a safety measure; or
   e. No longer living.

C. Removal of Palm Stands. Palm stands may be located across multiple parcels. In the event of an approved removal of a portion of a palm stand, the owner is encouraged to coordinate with adjacent property owners in order to reduce negative effects to the overall palm stand.

D. Exempted Palms. Palms of any size that appear on the Invasive and Noxious Weeds list for the State of Texas promulgated by the United States Department of Agriculture or on the Texas Noxious and Invasive Plants list promulgated by the Texas Department of Agriculture are exempted from this Section and may be removed. Identification by an International Society of Arboriculture Certified Arborist and/or degreed Forester is recommended.

E. Permit Required. A permit shall be obtained by the property owner prior to authorizing or subjecting a significant palm to removal.

SEC. 9.502 PALM REPLACEMENT

A. Generally. The removal of significant palms or palm stands must be mitigated. All requests for the removal of significant palms or palm stands shall be accompanied by a palm mitigation plan. Mitigation shall be achieved by the planting of the same amount of trunk feet removed, payment to the mitigation fund, or combination thereof.

B. Palm Replacement Required. Significant palms or palm stands that are approved for removal shall be replaced based on one foot of trunk height planted for one foot of trunk height removed. All replacement shall occur on the property on which the removal occurred. Replanting plan to be reviewed and approved by the City Arborist. All new palm species shall be from among palm species on the “Cold Hardy Palms for Galveston County of the Texas Upper Gulf Coast” list published by the Texas A&M System AgriLife Extension Service.
Palms planted as a requirement of this Section shall be inspected by the City Arborist, if applicable, for viability two years after planting. If the replacement palms are found to be dead or dying, they must be replaced following notification by the City. A planting plan and schedule shall be submitted within 45 days from the notification by the City. Failure to replace according to the approved planting plan and schedule shall constitute a violation of these regulations.

C. Palm Mitigation Fund. In lieu of the palm replacement requirements, mitigation may be achieved through the contribution to an account dedicated to landscaping and palms for the City. The mitigation amount shall be established by the City Council as part of the annual budget process:

1. $125 per foot of palm removed.

D. Combination. Mitigation may be achieved through a combination of palm replacement and payment to the palm mitigation fund provided that the total of caliper inches approved for removal are mitigated.

E. Exempted Palms. Palms that are being grown and removed for agricultural purposes; or palms that are certified to the City by an International Society of Arboriculture Certified Arborist, degreed Forester, or determined by the Development Services Director as having one or more of the following conditions are exempted from the tree replacement requirements of this section:

a. Unhealthy or structurally unsound;

b. Damaged by natural causes beyond the point of recovery;

c. Diseased beyond the point of recovery;

d. Poses a threat to the public and must be removed as a safety measure; or

e. No longer living.

SEC. 9.503 PALM PLANTING AND MAINTENANCE

A. Recommended Maintenance Best Practices.

1. Trimming is recommended to remove dead or dying fronds in order to prevent breakage, eliminate nesting places for pests, and reduce fire and visual hazards.

2. In order to avoid seeding, trimming should occur between June and July.

3. In order to prevent the spread of disease, including Fusarium wilt, all tools should be cleaned and disinfected between trimming each palm by one of the following methods:

<table>
<thead>
<tr>
<th>Material*</th>
<th>% Solution</th>
<th>Minimum Soaking Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Household bleach</td>
<td>25% (1 part bleach + 3 parts water)</td>
<td>5 minutes</td>
</tr>
<tr>
<td>Pine oil cleaner</td>
<td>25% (1 part cleaner + 3 parts water)</td>
<td>5 minutes</td>
</tr>
<tr>
<td>Rubbing alcohol (70% isopropyl)</td>
<td>50% (1 part alcohol + 1 part water)</td>
<td>5 minutes</td>
</tr>
<tr>
<td>Denatured ethanol (95%)</td>
<td>50% (1 part ethanol + 1 part water)</td>
<td>5 minutes</td>
</tr>
</tbody>
</table>

*the above materials were shown to be effective in eliminating fungus from the wood dust or palm sap trapped on pruning tools (Simone 1998). It is suggested that the solution be replaced after 10 trees or every 2 hours.
Rinse the tool with fresh water after soaking. Other potential disinfectants include trisodium phosphate or quaternary ammonium salts. The latter is recommended at a 5% solution, soaking for five minutes (Smith, Smith, and Clements 2003). Information courtesy of the University of Florida FAS Extension Service.

4. Remove only those fronds that are brown and pointing down. Do not remove green fronds, doing so may cause the palm stress. Leave as many green fronds as you possibly can on the palm. Palms need many green fronds to produce a steady food supply so that the plant can grow. A palm tree cannot stay healthy and build reserves without a considerable number of green fronds.

SEC. 9.504 OFFENSE

A. It is a violation of this section to perform activities that may result in the decline in health and/or death of a significant palm, including but not limited to excessive pruning of fronds and destruction of the trunk.
STAFF REPORT

19ZA-006

APPLICANT:
City of Galveston

REQUEST:
Text Amendment

APPLICABLE ZONING LAND USE REGULATIONS:
Article 9 Landscaping

PROPOSED TEXT AMENDMENT:
Include a new section in Article 9 to provide protection for palms

EXHIBITS:
A – Text Amendment – August 2, 2019 Version
B – Text Amendment – Current Draft
C – Examples of Palms

STAFF:
Catherine Gorman, AICP
Assistant Director/HPO
409-797-3665
corman@galvestontx.gov

Background:
In 2017, City Council directed the Tree Committee to develop a proposal for protecting palms. Palms are not including in the existing protections for trees due to the fact that palms are technically classified as a grass. The Tree Committee presented a proposal in the Summer of 2018. At that time, City Council directed the Tree Committee to develop a new proposal focusing on protecting only certain palm species.

On August 6, 2019, the Planning Commission reviewed the Tree Committee’s proposal and voted unanimously to recommend approval. Before the proposal was reviewed by the City Council, the Tree Committee received public comment that it wanted to address. The current proposal includes additional species for protections and modified heights. Attachment A includes the previous proposal. Attachment B includes the current proposal with the items that have changed highlighted.

Executive Summary:
At the June 25, 2019 meeting, the Tree Committee voted to recommend the following:

1. Include protection for palms as a new division in Article 9: Landscaping. The previous proposal included palms in Division 9.500: Tree Protection. The establishment of a new division will clearly differentiate palm protections from tree protections;
2. Identifies the five species that will protected (see Attachment B for examples) and provides the heights each palm species must be to be considered “significant” and to have protection from removal;
3. Provides standards for removal, replacement, and mitigation; and
4. Provides best practices for planting and maintenance.

At the October 29, 2019 meeting, the Tree Committee further voted to recommend the following:

1. Addition palm species for protection; and
2. Modification of some heights at which to consider palms “significant.”

Criteria for Text Amendments:
Per Section 13.700: Text Amendments of the Land Development Regulations: Recommendations and decisions regarding petitions for amendments to the text of these regulations are legislative in nature, but shall be based on consideration of all the following criteria:

1. The proposed amendment will help to implement the adopted City of Galveston 2011 Comprehensive Plan or if it involves a topic that is not addressed or not fully developed in the City of Galveston 2011
Criteria for Text Amendments Cont.

Comprehensive Plan, the proposed amendment will not impair the implementation of the adopted City of Galveston 2011 Comprehensive Plan and other adopted special-area and special-topic plans when compared to the existing regulations.

2. The proposed amendment is consistent with the stated purposes of these regulations.

3. The proposed amendment will maintain or advance the public health, safety, or general welfare.

4. The proposed amendment will help to mitigate adverse impacts of the use and development of land on the natural or built environment, including, but not limited to mobility, air quality, water quality, noise levels, storm water management, wildlife protection, and vegetation or will be neutral with respect to these issues.

5. The proposed amendment will advance the strategic objectives of the City Council such as fiscal responsibility, efficient use of infrastructure, public services, and other articulated City objectives.

Per Section 13.700: Text Amendments of the Land Development Regulations:

Purposes: Text amendment proposals shall serve the following purposes:

1. Advancing the goals, objectives and policies of the City’s Comprehensive Plan and other adopted special-area and special-topic plans;

2. Securing adequate light, air, convenience of access, and safety from fire, flood and other danger;

3. Lessening or avoiding congestion in public ways; Promoting the public health, safety, comfort, morals, convenience and general welfare; and Otherwise accomplishing the purposes of Texas Local Government Code Chapter 211, Municipal Zoning Authority.

Consideration for Text Amendments

Considerations: In preparation and considering proposals for text amendments, the Planning Commission and City Council shall pay reasonable regard to:

1. The Comprehensive Plan and related plans;

2. Current conditions and the character of current uses and structures in each district;

3. The most desirable use for which the land in each district is adapted;

4. The conservation of property values throughout the jurisdiction; and

5. Responsible development and growth.

Other Reviews

The Tree Committee reviewed at their October 29, 2019 meeting and voted to
recommend approval. The vote was five in favor and one in opposition. City Council has final decision making authority on this request. It will be reviewed at their January 23, 2020 meeting.

**Staff Recommendation**

Staff recommends approval of the request as submitted in Attachment B.

Respectfully Submitted,

Catherine Gorman, AICP
Assistant Director/HPO

December 12, 2019
Date
Division 9.600 Palm Preservation

SEC. 9.601 PROTECTION OF EXISTING SIGNIFICANT PALMS

A. Generally. Sites shall be designed to preserve existing palms and palm stands that are considered “significant” as provided in this Section. Palms contribute to Galveston’s appearance as a sub-tropical island, support the tourism industry, and are storm resistant. Mature palms may be of monetary value and can be easily transplanted.

For the purposes of this Division:

1. A palm is defined as any of a family (Palmae synonym Arecaceae) of mostly tropical or subtropical monocotyledonous palms, shrubs, or vines with usually a simple stem and a terminal crown of large pinnate or fan-shaped leaves.

2. Palm height shall be measured from ground level to the base of the growth point.

3. A significant palm shall be considered the following:
   a. Phoenix Date Palm (Phoenix dactylifera sylvestri (canariensis)), not including Robleini, at 10 feet in height;
   b. Pindo Palm (Butia capitate) at 10 feet in height;
   c. Sabal Palm (Sabal Mexicana) at 14 feet in height;
   d. Washingtonia Palm (Washingtonia filifera) at 25 feet in height; and
   e. Washingtonia Palm (Washingtonia Robusta and crosses) at 30 feet in height.

3. A significant palm stand is a group of palms that cover a total of at least 10,000 square feet of ground area.

B. Removal of Significant Palms and Stands of Palms. The City Manager or City Arborist, if applicable, may approve the removal of a significant palm or palm stand if it is demonstrated that the following are being met. It is highly encouraged that, in the case that palm removal is approved, the applicant consider transplanting the palms within the site or providing the palms to an interested third party for transplantation.

1. No reasonable alternative site design at the same development intensity could be approved that:
   a. Would preserve the palm(s);
   b. If large-scale preservation is not possible, would preserve the largest of the palms; or
   c. If protection of the largest palm(s) is not possible, would preserve a greater number of palms than the proposed development design.

2. It is located within 10 feet of an approved building footprint of new construction or addition;

3. It is located within 6 feet of a utility easement and would interfere with the use of the easement as determined by the City Engineer;

4. It is located within 8 feet of an approved outdoor recreation area that by its nature requires the removal of the palms, such as ball fields;
5. It is ordered removed by the City Manager for other emergency reasons;
6. It is being grown and removed for agricultural purposes; or
7. It is certified to the City by an International Society of Arboriculture Certified Arborist, degreed Forester, or determined by the Director of Development Services as having one or more of the following conditions:
   a. Unhealthy or structurally unsound;
   b. Damaged by natural causes beyond the point of recovery;
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C. Removal of Palm Stands. Palm stands may be located across multiple parcels. In the event of an approved removal of a portion of a palm stand, the owner is encouraged to coordinate with adjacent property owners in order to reduce negative effects to the overall palm stand.

D. Exempted Palms. Palms of any size that appear on the Invasive and Noxious Weeds list for the State of Texas promulgated by the United States Department of Agriculture or on the Texas Noxious and Invasive Plants list promulgated by the Texas Department of Agriculture are exempted from this Section and may be removed. Identification by an International Society of Arboriculture Certified Arborist and/or degreed Forester is recommended.

SEC. 9.502 PALM REPLACEMENT

A. Generally. The removal of significant palms or palm stands must be mitigated. All requests for the removal of significant palms or palm stands shall be accompanied by a palm mitigation plan. Mitigation shall be achieved by the planting of the same amount of trunk feet removed, payment to the mitigation fund, or combination thereof.

B. Palm Replacement Required. Significant palms or palm stands that are approved for removal shall be replaced based on one foot of trunk height planted for one foot of trunk height removed. All replacement shall occur on the property on which the removal occurred. Replanting plan to be reviewed and approved by the City Arborist. All new palm species shall be from among palm species on the “Cold Hardy Palms for Galveston County of the Texas Upper Gulf Coast” list published by the Texas A&M System AgriLife Extension Service.

Palms planted as a requirement of this Section shall be inspected by the City Arborist, if applicable, for viability two years after planting. If the replacement palms are found to be dead or dying, they must be replaced following notification by the City. A planting plan and schedule shall be submitted within 45 days from the notification by the City. Failure to replace according to the approved planting plan and schedule shall constitute a violation of these regulations.

C. Palm Mitigation Fund. In lieu of the palm replacement requirements, mitigation may be achieved through the contribution to an account dedicated to landscaping and palms for the City. The mitigation amount shall be established by the City Council as part of the annual budget process:
1. $125 per foot of palm removed.

**D. Combination.** Mitigation may be achieved through a combination of palm replacement and payment to the palm mitigation fund provided that the total of caliper inches approved for removal are mitigated.

**E. Exempted Palms.** Palms that are being grown and removed for agricultural purposes; or palms that are certified to the City by an International Society of Arboriculture Certified Arborist, degreed Forester, or determined by the Development Services Director as having one or more of the following conditions are exempted from the tree replacement requirements of this section:

a. Unhealthy or structurally unsound;

b. Damaged by natural causes beyond the point of recovery;

c. Diseased beyond the point of recovery;

d. Poses a threat to the public and must be removed as a safety measure; or

e. No longer living.

**SEC. 9.503 PALM PLANTING AND MAINTENANCE**

**A. Recommended Maintenance Best Practices.**

1. Trimming is recommended to remove dead or dying fronds in order to prevent breakage, eliminate nesting places for pests, and reduce fire and visual hazards.

2. In order to avoid seeding, trimming should occur between June and July.

3. In order to prevent the spread of disease, including Fusarium wilt, all tools should be cleaned and disinfected between trimming each palm by one of the following methods:

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<th>Minimum Soaking Time</th>
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<td>5 minutes</td>
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<tr>
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<td>25% (1 part cleaner + 3 parts water)</td>
<td>5 minutes</td>
</tr>
<tr>
<td>Rubbing alcohol (70% isopropyl)</td>
<td>50% (1 part alcohol + 1 part water)</td>
<td>5 minutes</td>
</tr>
<tr>
<td>Denatured ethanol (95%)</td>
<td>50% (1 part ethanol + 1 part water)</td>
<td>5 minutes</td>
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</tbody>
</table>

*the above materials were shown to be effective is eliminating fungus from the wood dust or palm sap trapped on pruning tools (Simone 1998). IT is suggested that the solution be replaced after 10 trees or every 2 hours. Rinse the tool with fresh water after soaking. Other potential disinfectants include trisodium phosphate or quaternary ammonium salts. The latter is recommended at a 5% solution, soaking for five minutes (Smith, Smith, and Clements 2003). Information courtesy of the University of Florida FAS Extension Service.

4. Remove only those fronds that are brown and pointing down. Do not remove green fronds, doing so may cause the palm stress. Leave as many green fronds as you possibly can on the palm. Palms need many green fronds to produce a steady food supply so that the plant can grow. A palm tree cannot stay healthy and build reserves without a considerable number of green fronds.
Division 9.600 Palm Preservation

SEC. 9.6 01 PROTECTION OF EXISTING SIGNIFICANT PALMS

A. Generally. Sites shall be designed to preserve existing palms and palm stands that are considered “significant” as provided in this Section. Palms contribute to Galveston’s appearance as a sub-tropical island, support the tourism industry, and are storm resistant. Mature palms may be of monetary value and can be easily transplanted.

For the purposes of this Division:

1. A palm is defined as any of a family (Palmae synonym Arecaceae) of mostly tropical or subtropical monocotyledonous palms, shrubs, or vines with usually a simple stem and a terminal crown of large pinnate or fan-shaped leaves.
2. Palm height shall be measured from ground level to the base of the growth point.
3. A significant palm shall be considered the following:
   a. Date Palms:
      1. Canary Island Date Palm (Phoenix canariensis) at 8 feet in height;
      2. Phoenix Date Palm (Phoenix dactylifera sylvestri (canariensis)), not including Pygmy Date Palm (Phoenix roebelenii), at 10 feet in height;
   b. Pindo Palm (Butia capitata) at 5 feet in height;
   c. Sabal Palm (Sabal mexicana) at 8 feet in height;
   d. Washingtonia Palm (Washingtonia filifera) at 15 feet in height;
   e. Washingtonia Palm (Washingtonia robusta and crosses) at 20 feet in height;
   f. Blue Hesper (Brahea armata) at 8 feet in height;
   g. Chinese fan (Livistona chinensis) at 8 feet in height; and
   h. Bismarck (Bismarkia nobilis) at 8 feet in height.
4. A significant palm stand is a group of palms that cover a total of at least 10,000 square feet of ground area, regardless of the height of the palms or the shape of the stand.

B. Removal of Significant Palms and Stands of Palms. The City Manager or City Arborist, if applicable, may approve the removal of a significant palm or palm stand if it is demonstrated that the following are being met. It is highly encouraged that, in the case that palm removal is approved, the applicant consider transplanting the palms within the site or providing the palms to an interested third party for transplantation.

1. No reasonable alternative site design at the same development intensity could be approved that:
   a. Would preserve the palm(s);
   b. If large-scale preservation is not possible, would preserve the largest of the palms; or
   c. If protection of the largest palm(s) is not possible, would preserve a greater number of palms than the proposed development design.
2. It is located within 10 feet of an approved building footprint of new construction or addition;
3. It is located within 6 feet of a utility easement and would interfere with the use of the easement as determined by the City Engineer;

4. It is located within 8 feet of an approved outdoor recreation area that by its nature requires the removal of the palms, such as ball fields;

5. It is ordered removed by the City Manager for other emergency reasons;

6. It is being grown and removed for agricultural purposes; or

7. It is certified to the City by an International Society of Arboriculture Certified Arborist, degreed Forester, or determined by the Director of Development Services as having one or more of the following conditions:
   a. Unhealthy or structurally unsound;
   b. Damaged by natural causes beyond the point of recovery;
   c. Diseased beyond the point of recovery;
   d. Poses a threat to the public and must be removed as a safety measure; or
   e. No longer living.

C. Removal of Palm Stands. Palm stands may be located across multiple parcels. In the event of an approved removal of a portion of a palm stand, the owner is encouraged to coordinate with adjacent property owners in order to reduce negative effects to the overall palm stand.

D. Exempted Palms. Palms of any size that appear on the Invasive and Noxious Weeds list for the State of Texas promulgated by the United States Department of Agriculture or on the Texas Noxious and Invasive Plants list promulgated by the Texas Department of Agriculture are exempted from this Section and may be removed. Identification by an International Society of Arboriculture Certified Arborist and/or degreed Forester is recommended.

SEC. 9.502 PALM REPLACEMENT

A. Generally. The removal of significant palms or palm stands must be mitigated. All requests for the removal of significant palms or palm stands shall be accompanied by a palm mitigation plan. Mitigation shall be achieved by the planting of the same amount of trunk feet removed, payment to the mitigation fund, or combination thereof.

B. Palm Replacement Required. Significant palms or palm stands that are approved for removal shall be replaced based on one foot of trunk height planted for one foot of trunk height removed. All replacement shall occur on the property on which the removal occurred. Replanting plan to be reviewed and approved by the City Arborist. All new palm species shall be from among palm species on the “Cold Hardy Palms for Galveston County of the Texas Upper Gulf Coast” list published by the Texas A&M System AgriLife Extension Service.

Palms planted as a requirement of this Section shall be inspected by the City Arborist, if applicable, for viability two years after planting. If the replacement palms are found to be dead or dying, they must be replaced following notification by the City. A planting plan and schedule shall be submitted within 45 days
from the notification by the City. Failure to replace according to the approved planting plan and schedule shall constitute a violation of these regulations.

**C. Palm Mitigation Fund.** In lieu of the palm replacement requirements, mitigation may be achieved through the contribution to an account dedicated to landscaping and palms for the City. The mitigation amount shall be established by the City Council as part of the annual budget process:

1. $125 per foot of palm removed.

**D. Combination.** Mitigation may be achieved through a combination of palm replacement and payment to the palm mitigation fund provided that the total of caliper inches approved for removal are mitigated.

**E. Exempted Palms.** Palms that are being grown and removed for agricultural purposes; or palms that are certified to the City by an International Society of Arboriculture Certified Arborist, degreed Forester, or determined by the Development Services Director as having one or more of the following conditions are exempted from the tree replacement requirements of this section:

a. Unhealthy or structurally unsound;

b. Damaged by natural causes beyond the point of recovery;

c. Diseased beyond the point of recovery;

d. Poses a threat to the public and must be removed as a safety measure; or

e. No longer living.

**SEC. 9.503 PALM PLANTING AND MAINTENANCE**

**A. Recommended Maintenance Best Practices.**

1. Trimming is recommended to remove dead or dying fronds in order to prevent breakage, eliminate nesting places for pests, and reduce fire and visual hazards.

2. In order to avoid seeding, trimming should occur between June and July.

3. In order to prevent the spread of disease, including Fusarium wilt, all tools should be cleaned and disinfected between trimming each palm by one of the following methods:

<table>
<thead>
<tr>
<th>Material*</th>
<th>% Solution</th>
<th>Minimum Soaking Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Household bleach</td>
<td>25% (1 part bleach + 3 parts water)</td>
<td>5 minutes</td>
</tr>
<tr>
<td>Pine oil cleaner</td>
<td>25% (1 part cleaner + 3 parts water)</td>
<td>5 minutes</td>
</tr>
<tr>
<td>Rubbing alcohol (70% isopropyl)</td>
<td>50% (1 part alcohol + 1 part water)</td>
<td>5 minutes</td>
</tr>
<tr>
<td>Denatured ethanol (95%)</td>
<td>50% (1 part ethanol + 1 part water)</td>
<td>5 minutes</td>
</tr>
</tbody>
</table>

*the above materials were shown to be effective in eliminating fungus from the wood dust or palm sap trapped on pruning tools (Simone 1998). It is suggested that the solution be replaced after 10 trees or every 2 hours. Rinse the tool with fresh water after soaking. Other potential disinfectants include trisodium phosphate or quaternary ammonium salts. The latter is recommended at a 5% solution, soaking for five minutes (Smith, Smith, and Clements 2003). Information courtesy of the University of Florida FAS Extension Service.
4. Remove only those fronds that are brown and pointing down. Do not remove green fronds, doing so may cause the palm stress. Leave as many green fronds as you possibly can on the palm. Palms need many green fronds to produce a steady food supply so that the plant can grow. A palm tree cannot stay healthy and build reserves without a considerable number of green fronds.
Canary Island Date Palm (Phoenix canariensis)

Photo Credit: University of Florida
Phoenix Date Palm (Phoenix dactylifera sylvestri (canariensis))

Photo Credit: Arizona State University
Pindo Palm (Butia capitate)

Photo Credit: Arizona State University
Sabal Palm (Sabal Mexicana)

Photo Credit: Colorado State University
Washingtonia Palm (Washingtonia filifera)

Photo Credit: Arizona State University
Washingtonia Palm (Washingtonia Robusta and crosses)

Photo Credit: Arizona State University
Blue Hesper (Brahea armata)

Photo Credit: Wikipedia
Chinese fan (Livistona chinensis)

Photo Credit: University of Florida
Bismarck (Bismarkia nobilis)

Photo Credit: University of Florida
19BF-084

ADDRESS:
Beachtown Galveston East Village;
Center Village Reserves;
Beachtown Galveston East Village 2nd Replat

LEGAL DESCRIPTION:
Property is legally described as Beachtown Galveston East Village (2007), Reserve L (0-12); Center Village Reserves (2007), Pt of Reserve E6 (6-1); Center Village Reserves (2007), Pt of Reserve E6 (6-0); Beachtown Galveston East Village 2nd Replat (2015), Reserves I & J TR J-1 (0-19) subdivisions located in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:
Tofigh Shirazi

PROPERTY OWNER:
Beachtown Galveston Corp.

REQUEST:
Beachfront Construction Certificate/Dune Protection Permit for Annual Beach Maintenance.

APPLICABLE LAND USE REGULATIONS:
Chapter 29, Article 2, Beach Access Dune Protection and Beachfront Construction Regulation.

STAFF RECOMMENDATION:
Approval with Conditions

EXHIBITS:
A – Aerial Map
B – Site Plan & Narrative
C – Site Photos
D – GLO Comments

STAFF:
Virginia Greb
Coastal Resources Asst. Mgr.
VGreb@GalvestonTX.gov

Note: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. The data presented on these pages is not legally binding on the City of Galveston or any of its departments. These maps and the associated data are representations ONLY and may contain errors in the databases. Therefore, the information presented on this map is for informational purposes only and should not be construed to be legally binding.

Executive Summary:
The City of Galveston’s Dune Protection and Beach Access Plan designates the Planning Commission as the authority to review and consider for approval of applications for a Beachfront Construction Certificate/Dune Protection Permit when the proposed construction activities will occur in areas within or seaward of the Dune Conservation Area or up to 50-feet landward of the Dune Protection Line. The Dune Protection Line is defined as the area within 25-feet landward of the north toe of the critical dune area, or for those beach areas where no dunes exist west of the terminus of the Seawall, within 200-feet landward of the line of vegetation.

The applicant is requesting approval to conduct annual beach maintenance activities on approximately 3,370 linear feet of beach in the Beachtown Village Subdivision. The proposed beach maintenance areas are seaward of the Dune Protection Line and within the Planning Commission review area. The applicant proposes to conduct beach maintenance activities on the dry beach area during the following times: weekly beach maintenance activities during the months of June through August; twice-monthly beach maintenance activities during April, May, and September; and monthly beach maintenance activities October through March.

According to the General Land Office Dune Protection Manual, the dry beach (backshore) is defined as the area of beach inundated only by storm tides and higher spring tides. The dry beach also supplies sand to the dunes.
Site and Surrounding Area:
The subject site totals approximately 3,730 linear feet of beach in the Beachtown Village Subdivision. There are single and multi-family dwellings located to the North of the proposed beach maintenance area and beach area to the South, East, and West. According to the Bureau of Economic Geology, between the 1950s and 2012, this beach area has experienced an average shoreline change rate of +4.0 to +8.0 feet per year.

Analysis:
The table below summarizes details from the applicant site plan and narrative (Attachment “B”) regarding the proposed annual beach maintenance area in linear feet:

<table>
<thead>
<tr>
<th>Location</th>
<th>Linear Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Village One</td>
<td>1,150</td>
</tr>
<tr>
<td>Center Village</td>
<td>1,550</td>
</tr>
<tr>
<td>East Village</td>
<td>1,030</td>
</tr>
</tbody>
</table>

In accordance with Chapter 29: Planning – Beach Access Dune Protection & Beach Front Construction, before issuing a permit, the Planning Commission must find that the proposed construction conforms with the following Beachfront Construction Certificate and Dune Protection Permit standards:

1. The proposed activity is not a prohibited activity as defined in these standards.

   The request conforms to the City of Galveston’s Dune Protection and Beach Access Plan, and Erosion Response Plan. The site plan and narrative, (Attachment “B”), are submitted with this request.

   Staff has reviewed the application materials and no prohibited activities seaward of the Dune Protection Line have been identified.

2. The proposed activity will not materially weaken dunes or materially damage dune vegetation seaward of the Dune Protection Line based on substantive findings as defined in "Technical Standards" of these standards.

   According to Section 29-2(k) Technical Standards, the Planning Commission shall not approve an application for construction if it is determined that it will result in a material weakening and material damage of dune vegetation. The following standards are to be used to make this determination:

   a. The activity shall not result in the potential for increased flood damage to the proposed construction site or adjacent property;

   b. The activity shall not result in runoff or drainage patterns that aggravate erosion on or off the site;

   c. The activity shall not result in significant changes to dune hydrology;

   d. The activity shall not result in adverse effects on dune complexes or dune vegetation;

   e. The activity shall not significantly increase the potential for washovers or blowouts to occur; or

   f. The Commission shall not issue a Beachfront Construction Certificate and Dune Protection Permit authorizing construction unless the construction and property design is designed so as to minimize impacts on natural hydrology. Such projects shall not cause erosion to adjacent properties, critical dune areas, or the public beach.

   The Technical Standards also state that the Planning Commission should take into consideration all comments from
the Texas General Land Office when deciding whether to grant a Beachfront Construction Certificate/Dune Protection Permit. Comments from the Texas General Land Office for this request are found in Attachment “D” and recommended as specific conditions for this request, should the Planning Commission approve this request.

The proposed construction will be required to be consistent with FEMA minimum requirements, which should not increase the potential for increased flood damage to the construction site or adjacent property.

As a result of the construction, the applicant is prohibited from affecting runoff or drainage patterns that would aggravate erosion on or off site, result in significant changes to dune hydrology, or significantly increase the potential for washovers or blowouts to occur. Runoff should be directed away from the dune area. The applicant is required to direct all non-natural drainage on the lot away from the beach and dunes, and toward the drainage infrastructure in the subdivision and in the street landward of the lot. Drainage plans are to be reviewed and approved by the City Engineering Department.

Staff finds that the proposed beach maintenance activity will not materially weaken dunes or materially damage dune vegetation, as defined by these Technical Standards because the proposed beach maintenance activities are to be conducted on the dry beach area at scheduled times.

(3) There are no practicable alternatives to the proposed activity that is located seaward of the Dune Protection Line and adverse effects cannot be avoided as provided in the Mitigation sequence as outlined in these Standards.

The City’s Dune Protection and Beach Access Plan states that the Planning Commission shall utilize the Mitigation Sequence in determining whether to issue a permit for an activity located seaward of the Dune Protection Line, after the determination that no material weakening of dunes or material damages to dunes will occur within critical dune areas or seaward of the Dune Protection Line. The mitigation sequence is as follows:

1) **Avoid** the impact altogether by not taking a certain action or parts of an action;

2) **Minimize** impacts by limiting the degree or magnitude of the action and its implementation;

3) **Rectify** the impact by repairing, rehabilitating, or restoring the affected environment; and,

4) **Compensate** for the impact by replacing resources lost or damaged.

According to the application materials, the entirety of the proposed beach maintenance activities will be located seaward of the Dune Protection Line but only in the dry beach area at scheduled times, therefore no adverse effects to dunes or dune vegetation are anticipated.

(4) The applicant’s mitigation plan, for an activity seaward of the Dune Protection Line, if required, will adequately minimize, mitigate, and/or compensate for any unavoidable adverse effects.

Staff finds that the proposed activity will not materially weaken dunes or materially damage dune vegetation and no adverse effects to dunes or dune vegetation are expected as the proposed beach maintenance activities are to be conducted on the dry beach area at scheduled times.
The proposed activity complies with any applicable requirements of: Requirements for Beachfront Construction Certificate and Dune Protection Permits and Management of the Public Beach of this Section; and

The application conforms to the City of Galveston’s requirements for a Beachfront Construction Certificate and Dune Protection Permit, and the City’s requirements for the management of the public beach.

The structure is located as far landward as practicable.

This standard does not apply. A structure is not being proposed for construction. The applicant is proposing annual beach maintenance activities.

Staff Recommendation:
Staff recommends approval of 19BF-084 with the following conditions:

Specific Conditions to Case 19BF-084:

1. Removal or destruction of dune vegetation within the area seaward of the Dune Protection Line is prohibited (per Section C of the City’s Dune Protection & Beach Access Plan). Chapter 8 of Municipal Code prohibits the operation of a motor vehicle upon, over, or across a sand dune (Sec. 8-4), and prohibits the operation or parking of a vehicle within ten feet of the dune line (Sec. 8-3(f)).

2. The applicant shall adhere to all comments from the Texas General Land Office (GLO) included in Attachment "D":
   a. The applicant may not conduct beach maintenance activities at a greater frequency than outlined above and must minimize the raking of the beach to only when the influx of materials is heavy enough to impact the public’s ability to use the public beach easement. The GLO encourages the removal of litter and other debris by handpicking or raking and strongly discourages the use of machines;

   b. Should there be a need for additional beach maintenance conducted outside of the schedule provided in the application materials, the applicant must provide an updated schedule to the City and GLO for review;

   c. The proposed beach maintenance activity must not restrict or interfere with public use of or access to the beach or the pedestrian pathways.

   d. The applicant shall avoid impacts to any dunes or dune vegetation. The applicant may not rake over dune vegetation or operate machinery on dunes. Collected maintenance materials should be thinly spread and not placed in large piles. The GLO recommends placing collected maintenance materials in low areas, blowouts and breaches within the primary dune complex. If maintenance materials cannot be placed in the primary dune complex or its placement would adversely affect dunes and dune vegetation, the collected maintenance materials may be placed immediately adjacent to the line of vegetation provided its placement would not adversely affect public access.

   e. The applicant’s activities must not result in significant redistribution of sand or significantly alter the beach profile, materially weaken dunes or dune vegetation, or reduce the protective function of dunes.

   f. The rake height should be adjusted to allow the rake teeth to draw man-made and naturally occurring debris into piles or windrows, while at the same time minimizing the amount of sand moved from
the beach.

g. The applicant must return any sand moved or redistributed due to beach maintenance activities to the area between the line of vegetation and mean high tide.

h. The applicant’s beach maintenance activities must not result in the potential for increased flood damage to the site or adjacent property; result in runoff or drainage patterns that aggravate erosion; cause significant changes to dune hydrology; adversely affect dune complexes or dune vegetation; or significantly increase the potential for washovers or blowouts to occur.

i. In addition to the requirements outlined above, the applicant must conduct activities in accordance with other local, state, or federal permits, such as permits issued by the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers.

**Standard Conditions:**

3. Work approved under this permit shall be completed within one (1) year from the date this permit is issued. If work is not completed in this time period, it will be necessary for the applicant to reapply for a Beachfront Construction Certificate/Dune Protection Permit, unless an extension of the period, prior to the expiration, has been submitted to the Texas General Land Office for review and approved by the City;

4. Any alterations to the project, as approved, shall return to the Planning Commission and/or Texas General Land Office for additional review and approval;

5. The applicant shall coordinate any/all dune enhancement plans with the Development Services Department; and,

6. The applicant must adhere to all aspects of Section 29: Planning-Beach Access Dune Protection & Beachfront Construction.

**ERP PRACTICABLE DEFINITION**

Practicable means available and capable of being done after taking into consideration existing building practices, siting alternatives, and the footprint of the structure in relation to the area of the building portion of the lot, and considering the overall development plan for the property.

**TEXAS ADMINISTRATIVE CODE PRACTICABLE DEFINITION 15.2(57)**

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.

Respectfully Submitted,

Virginia Greb
Coastal Resources Assistant Manager

01/03/20

Date
Catherine Gorman, AICP
Assistant Planning Director / HPO

01/03/20
Date
Beachtown Galveston Corporation
630 Beachtown Drive, Beachtown
Galveston, Texas 77550

Applicant Narrative for Annual Beach Maintenance Application
Submitted on: 1/1/2019

Beachtown Galveston Corporation is applying to renew the Annual Beach Maintenance permit which expires on 12/31/19. Outlined below you will find the items requested to be included in this narrative.

- **Linear Footage:** Village One is applying to clean 1,150 linear feet of beach, Center Village is applying to clean 1,550 linear feet of beach and East Village is applying to clean 1,030 linear feet of beach. Work will only take place from the 3' elevation contour northward and will not enter federal waters under the USACE jurisdiction.

- **Frequency:** Current plans call for monthly cleanings in the months of January, February, March, April, October, November, and December. Twice monthly cleanings will occur in the months of April, May and September. Weekly cleanings will occur in the months of June, July and August.

- **Equipment:** Beachtown Galveston Corporation will utilize 3 types of equipment either owned or contracted with a beach cleaning contractor. Two of these equipment are manufactured by H. Barber and Sons and include the “Sandman” (smaller walk behind machine) and the “barber Surf Rake” pulled by a Kubota (or similar) tractor (same type of equipment used by the Galveston Island Park Board). The third is a Suzuki Beach Buggy with a screened rake attached to the back.

- **Seaweed Placement:** Seaweed placement will be evenly distributed along the dune line to avoid any possible wetland areas.

- **Trash and Debris:** Trash and Debris will be placed in the existing trash cans provided by the Galveston Park Board or, if too large, removed and placed in the dumpster containers at Beachtown.

- **Nesting Turtles:** The beach cleaning crew who will have a Turtle Monitor to make sure that their equipment will avoid disturbing the turtles.
• **Affirmation:** The proposed activity will in no way affect public beach access nor will it adversely affect the beach or exacerbate erosion. This portion of the beach is an accreting beach and the proposed equipment is the least intrusive mechanized method of cleaning and grooming beaches.

• **Sand:** All sand will remain between the line of vegetation and the mean high tide and there will be no significant redistribution of the sand.

• **Dunes:** The activity will not have an adverse effect on the dunes or dune vegetation nor will it alter the beach profile or the line of vegetation.
SITE PLAN - BEACH CLEANING HIGHLIGHTED IN BLUE
400 FEET WEST OF THE EDGE OF THE PROPERTY LOOKING TOWARDS THE DUNES
200 FEET WEST OF THE EDGE OF THE PROPERTY LOOKING TOWARDS THE DUNES
EDGE OF PROPERTY LOOKING WEST
EDGE OF THE PROPERTY LOOKING EAST
VILLAGE ONE - LOOKING NORTH TOWARDS THE DUNES
December 9, 2019

Virginia Greb
Coastal Resources Assistant Manager
Development Services Department
City of Galveston
823 Rosenberg, Room 401
Galveston, Texas 77550-2103

Beachfront Construction Certificate and Dune Protection Permit in the City of Galveston

Site Address: Beachtown – Section One (Village One), Center Village, and East Village, Galveston

Legal Description: Beachtown Galveston East Village (2007) Abst 628, Reserve L (D-12), Acres 8.244; Center Lane Village Reserves (2007) Abst 628, PT of Reserve E6 (6-0), Acres 29.769

Lot Applicant: Beachtown Galveston Co. c/o Tofiqh Shirazi

Case Number: 19BF-084

GLO ID No.: BDCOG-19-0321

Dear Ms. Greb:

The General Land Office (GLO) has reviewed the application materials for a beachfront construction certificate and dune protection permit for the above-referenced location. The applicant proposes to conduct beach maintenance activities on only the dry beach weekly during June through August, twice monthly during April, May and September, and monthly from October through March along approximately 1,150 linear feet of beach in front of Village One, approximately 1,550 linear feet of beach in front of Center Village, and approximately 1,030 linear feet of beach in front of East Village. According to the Bureau of Economic Geology, the area is accreting.

Based on the information provided to our office for review, we have the following comments:

- The applicant may not conduct beach maintenance activities at a greater frequency than outlined above and must minimize the raking of the beach to only when the influx of materials is heavy enough to impact the public’s ability to use the public beach easement. The GLO encourages the removal of litter and other debris by handpicking or raking and strongly discourages the use of machines.¹

¹ 31 Tex. Admin. Code § 15.7(l).
• Should there be a need for additional beach maintenance conducted outside of the schedule provided in the application materials, the applicant must provide an updated schedule to the City and GLO for review.

• The proposed beach maintenance activity must not restrict or interfere with public use of or access to the beach² or the pedestrian pathways.³

• The applicant shall avoid impacts to any dunes or dune vegetation.⁴ The applicant may not rake over dune vegetation or operate machinery on dunes. Collected maintenance materials should be thinly spread and not placed in large piles. The GLO recommends placing collected maintenance materials in low areas, blowouts and breaches within the primary dune complex. If maintenance materials cannot be placed in the primary dune complex or its placement would adversely affect dunes and dune vegetation, the collected maintenance materials may be placed immediately adjacent to the line of vegetation provided its placement would not adversely affect public access.

• The applicant’s activities must not result in significant redistribution of sand or significantly alter the beach profile, materially weaken dunes or dune vegetation, or reduce the protective function of dunes.⁵

• The rake height should be adjusted to allow the rake teeth to draw man-made and naturally occurring debris into piles or windrows, while at the same time minimizing the amount of sand moved from the beach.⁶

• The applicant must return any sand moved or redistributed due to beach maintenance activities to the area between the line of vegetation and mean high tide.⁷

• The applicant’s beach maintenance activities must not result in the potential for increased flood damage to the site or adjacent property; result in runoff or drainage patterns that aggravate erosion; cause significant changes to dune hydrology; adversely affect dune complexes or dune vegetation; or significantly increase the potential for washovers or blowouts to occur.⁸

• In addition to the requirements outlined above, the applicant must conduct activities in accordance with other local, state, or federal permits, such as permits issued by the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers.

If you have any questions, please contact me at (512) 463-5232 or at michelle.culver@glo.texas.gov.

Sincerely,

---

² 31 Tex. Admin. Code § 15.7(e)(2).
³ City of Galveston Beach Access Plan Appendix A
⁵ 31 Tex. Admin. Code § 15.7(l).
⁶ City of Galveston Beach Access Plan § 29-90(o)(6)(d)(1).
⁷ 31 Tex. Admin. Code § 15.7(l).
Ms. Greb
December 9, 2019
Page 3 of 3

Michelle Culver
Beach Access & Dune Protection Program
Coastal Resources Division
Texas General Land Office

cc: Dustin Henry, Coastal Resources Manager
19P-063

ADDRESS:
24535 San Luis Pass Road

LEGAL DESCRIPTION:
Property is legally described as Lot 4, Stavanger Beach, a subdivision located in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:
Wright Way Co., James Wright

PROPERTY OWNER:
SDS Properties LLC., Steve Spears

REQUEST:
Beachfront Construction Certificate/Dune Protection Permit for construction of a single-family dwelling, driveway, and dune walkover.

APPLICABLE LAND USE REGULATIONS:
Chapter 29, Article 2, Beach Access Dune Protection and Beachfront Construction Regulation.

STAFF RECOMMENDATION:
Approval with Conditions

EXHIBITS:
A – Aerial Map
B – Topographic Survey
C – Site Plan & Drawings
D – Site Photos
E – GLO Comment Letter

STAFF:
Virginia Greb
Coastal Resources Asst. Mgr.
VGreb@GalvestonTX.gov

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The applicant is requesting approval to construct a single-family dwelling, driveway, and dune walkover in an area approximately 25-feet from the North Toe of the Critical Dune Area, and within the Enhanced Construction Zone. The proposed construction of a single-family dwelling and driveway are landward of the Dune Protection Line and within the Planning Commission review area. The proposed construction activities appear to be landward of dunes and dune vegetation, according to the application materials, therefore no mitigation activities are proposed.

Site and Surrounding Area:
The subject site is a 0.318-acre lot located in the Stavanger Beach Subdivision. FM-3005 is located North of the subject property, beach area to the South, an undeveloped lot to the East, and a single-family dwelling to the West.

According to the Bureau of Economic Geology, between the 1950s and 2012 this beach area has experienced an average shoreline change rate of -3.7 to -2.5 feet per year.
Analysis:
The table below summarizes details from the applicant site plan and survey (Attachments “B” and “C”) regarding the proposed new construction and the location of proposed construction in relation to on-site conditions:

<table>
<thead>
<tr>
<th>Proposed Structure’s Distance from:</th>
<th>Distance (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>...North Toe of the Dune</td>
<td>25’</td>
</tr>
<tr>
<td>...the Line of Vegetation</td>
<td>285’</td>
</tr>
<tr>
<td>...South Toe of the Dune</td>
<td>285’</td>
</tr>
</tbody>
</table>

In accordance with Chapter 29: Planning – Beach Access Dune Protection & Beach Front Construction, before issuing a permit, the Planning Commission must find that the proposed construction conforms with the following Beachfront Construction Certificate and Dune Protection Permit standards:

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

The request conforms to the City of Galveston’s Dune Protection and Beach Access Plan, and Erosion Response Plan. The drawings, (Attachment “C”), are submitted with this request.

The proposed construction is landward of the Dune Protection Line and the Dune Conservation Area, therefore a ground floor enclosure is permitted. Note: the City’s locally adopted flood ordinance requires ground floor enclosures to be no greater than 299 square feet as measured from the outside of the enclosure.

Staff has reviewed the application materials, and no prohibited activities seaward of the Dune Protection Line have been identified.

(2) The proposed activity will not materially weaken dunes or materially damage dune vegetation seaward of the Dune Protection Line based on substantive findings as defined in "Technical Standards" of these standards.

According to Section 29-2(k) Technical Standards, the Planning Commission shall not approve an application for construction if it is determined that it will result in a material weakening and material damage of dune vegetation. The following standards are to be used to make this determination:

a. The activity shall not result in the potential for increased flood damage to the proposed construction site or adjacent property;

b. The activity shall not result in runoff or drainage patterns that aggravate erosion on or off the site;

c. The activity shall not result in significant changes to dune hydrology;

d. The activity shall not result in adverse effects on dune complexes or dune vegetation;

e. The activity shall not significantly increase the potential for washovers or blowouts to occur; or

f. The Commission shall not issue a Beachfront Construction Certificate and Dune Protection Permit authorizing construction unless the construction and property design is designed so as to minimize impacts on natural hydrology. Such projects shall not cause erosion to adjacent properties, critical dune areas, or the public beach.

The Technical Standards also state that the Planning Commission should take into consideration all comments from the Texas General Land Office when deciding whether to grant a Beachfront Construction Certificate/Dune Protection Permit. Comments from the Texas General Land Office for this request are found in Attachment “F” and
recommended as specific conditions for this request, should the Planning Commission approve this request.

The proposed construction will be required to be consistent with FEMA minimum requirements, which should not increase the potential for increased flood damage to the construction site or adjacent property.

As a result of the construction, the applicant is prohibited from affecting runoff or drainage patterns that would aggravate erosion on or off site, result in significant changes to dune hydrology, or significantly increase the potential for washovers or blowouts to occur. Runoff should be directed away from the dune area. The applicant is required to direct all non-natural drainage on the lot away from the beach and dunes, and toward the drainage infrastructure in the subdivision and in the street landward of the lot. Drainage plans are to be reviewed and approved by the City Engineering Department.

Given the proposed construction activities are taking place landward of the Dune Conservation Area, staff finds that the proposed construction will not materially weaken dunes or materially damage dune vegetation, as defined by these Technical Standards.

3) **There are no practicable alternatives to the proposed activity that is located seaward of the Dune Protection Line and adverse effects cannot be avoided as provided in the Mitigation sequence as outlined in these Standards.**

The City’s Dune Protection and Beach Access Plan states that the Planning Commission shall utilize the Mitigation Sequence in determining whether to issue a permit for an activity located seaward of the Dune Protection Line, after the determination that no material weakening of dunes or material damages to dunes will occur within critical dune areas or seaward of the Dune Protection Line. The mitigation sequence is as follows:

1) **Avoid** the impact altogether by not taking a certain action or parts of an action;

2) **Minimize** impacts by limiting the degree or magnitude of the action and its implementation;

3) **Rectify** the impact by repairing, rehabilitating, or restoring the affected environment; and,

4) **Compensate** for the impact by replacing resources lost or damaged.

According to the application materials, the entirety of the proposed construction will be located landward of the Dune Protection Line, therefore no adverse effects to dunes or dune vegetation are anticipated.

4) **The applicant’s mitigation plan, for an activity seaward of the Dune Protection Line, if required, will adequately minimize, mitigate, and/or compensate for any unavoidable adverse effects.**

No construction activities seaward of the Dune Protection Line are proposed with this request, and no adverse effects to dunes or dune vegetation are expected.

5) **The proposed activity complies with any applicable requirements of: Requirements for Beachfront Construction Certificate and Dune Protection Permits and Management of the Public Beach of this Section; and**

The application conforms to the City of Galveston’s requirements for a Beachfront Construction Certificate and Dune Protection Permit, and the City’s requirements for the management of the public beach.
(6) **The structure is located as far landward as practicable.**

This standard does not apply, as the proposed construction is not in the critical dune area.

The proposed construction is within the Enhanced Construction Zone, which is an area defined as being 125-feet landward of the Dune Conservation Area along Galveston’s Gulf coast with an aggregate shoreline change of -2 to -8 feet per year. The City’s Erosion Response Plan requires the following additional construction standards for any proposed construction activities within the Enhanced Construction Zone:

- Plans and certifications for proposed structures shall be sealed by a registered professional engineer licensed in the State of Texas, providing evidence of the adequacy of elevated building foundations and the proper placement, compaction, and protection of fill when used as construction for all newly constructed, substantially damaged, and substantially improved buildings elevated on pilings, posts, piers, or columns in accordance with the latest edition of specifications outlined in American Society of Civil Engineers, Structural Engineering Institute, Flood Resistant Design and Construction, ASCE 24-05.

**Staff Recommendation:**
Staff recommends approval of 19P-063 with the following conditions:

**Specific Conditions to Case 19P-063:**

1. Plans and certifications for proposed structures within the enhance construction zone shall be sealed by a registered professional engineer licensed in the State of Texas, providing evidence of the adequacy of elevated building foundations and the proper placement, compaction, and protection of fill when used as construction for all newly constructed, substantially damaged, and substantially improved buildings elevated on pilings, posts, piers, or columns in accordance with the latest edition of specifications outlined in American Society of Civil Engineers, Structural Engineering Institute, Flood Resistant Design and Construction, ASCE 24-05;

2. The applicant shall provide a revised site plan that depicts the proposed driveway will merge with the existing ingress-egress drive that services the adjacent lot to the West;

3. The applicant shall adhere to all comments from the Texas General Land Office (GLO) included in Attachment “E”:

   a. There are numerous existing dune walkovers within this subdivision. The City must minimize the proliferation of excessive private access by permitting only the minimum necessary number of private beach access points to the beach from any subdivision.

   b. The applicant may not damage any dune vegetation or clear or remove any vegetation on either side of proposed walkover for the purpose of facilitating construction.

   c. The applicant should terminate the dune walkover no farther seaward than the line of vegetation. Dune walkovers may not impede or restrict public access to the beach at normal high tide.

   d. The City shall require the applicant to relocate the walkover to follow any landward migration of the public beach or seaward migration of dunes.

   e. With the exception of the paired posts constructed on each side of the proposed dune walkover, the support posts must be placed at intervals no closer than six feet and in such a manner that new posts
are not needed if the walkway requires relocation or elevation in the future.

f. The proposed dune walkover must be constructed to maintain ½-inch spacing between the slats to allow rain and sand to pass through the decking.

g. Concrete may not be used to stabilize the base of the pilings of the dune walkover.

h. The dune walkover shall be constructed at a height above the highest dune of not less than the width of the dune walkovers and maintain this height over the entire dune area.

i. Construction of the proposed dune walkover should conform to the GLO’s guidelines provided in the Dune Protection and Improvement Manual for the Texas Gulf Coast, which is located at http://www.glo.texas.gov/coast/coastal-management/forms/files/dune-protection-manual-gpb.pdf

j. The proposed habitable structure must be located as far landward as practicable.

k. The applicant does not propose to construct the habitable structure within the Dune Conservation Area and is prohibited from doing so without an exemption.

l. In the area seaward of 25 feet from the north toe of the dune, paving or altering the ground, which includes the use of fibercrete and crushed rock, is not proposed in this application and is prohibited.

m. In the area 150 feet landward of the north toe of the dune complex, paving used under the habitable structure and for driveways connecting the habitable structure and the street is limited to the use of unreinforced fibercrete in four-foot by four-foot sections, four-inches thick with sections separated by expansion joints or pervious material. A habitable structure is defined as a structure used or usable for habitation. The area beneath uncovered decks or stairs may not be paved. The use of reinforced concrete is prohibited in this area.

n. The GLO recommends that the applicant merges the proposed driveway with the existing ingress-egress drive that services the site and the adjacent lot.

o. The driveway must be limited to the linear width of the primary structure, along the main street, and a minimum of 15% of the front yard must be maintained as open/unimproved area.

p. The applicant proposes to construct an enclosure beneath the habitable structure. The City may only permit the applicant to construct an enclosure beneath the habitable structure if the walls are breakaway or louvered and the construction is consistent with the requirements of the National Flood Insurance Program.

q. The City must ensure the proposed construction is consistent with at least the minimum FEMA requirements or with the FEMA approved local ordinance.

r. The City must ensure the proposed habitable structure is designed for feasible relocation.

s. The proposed construction activities must not result in the potential for increased flood damage to the proposed construction site or adjacent property, result in runoff or drainage patterns that aggravate erosion, cause significant changes to dune hydrology, adversely affect dune complexes or dune vegetation, or significantly increase the potential for washovers or blowouts to occur.

t. The City shall not issue a certificate or permit authorizing construction unless the construction
activities will minimize impacts on natural hydrology. Such projects shall not cause erosion of adjacent properties, critical dune areas, or the public beach.

u. Please be advised that the line of vegetation is dynamic. Structures may not encroach on the public beach. If the structure becomes located seaward of the line of vegetation because of loss of elevation, the structure may be allowed to remain in place if it does not significantly interfere with public access to the beach or present a public health and safety risk. Structures located seaward of the line of vegetation and landward of the line of mean high tide will periodically be reassessed on a case-by-case basis, and owners may be allowed to make certain repairs under the Beach/Dune rules and local government plans.

v. If any part of a structure comes to be located seaward of the line of mean high tide, it becomes an unauthorized structure on state-owned lands. Repairs are prohibited and the state may take action to remove the structure.

**Standard Conditions:**

4. Work approved under this permit shall be completed within one (1) year from the date this permit is issued. If work is not completed in this time period, it will be necessary for the applicant to reapply for a Beachfront Construction Certificate/Dune Protection Permit, unless an extension of the period, prior to the expiration, has been submitted to the Texas General Land Office for review and approved by the City;

5. Any alterations to the project, as approved, shall return to the Planning Commission and/or Texas General Land Office for additional review and approval;

6. All non-natural drainage from the dwelling shall be directed away from the beach and dunes, toward the street landward of the lot and to the drainage infrastructure in the subdivision, and drainage plans shall be submitted to the City of Galveston Public Works Department, Division of Engineering for approval;

7. The area seaward of the dwelling shall be designated a dune protection area, prohibiting any alteration of natural conditions in this area, except for any future proposed dune walkovers, approved by the Development Services Department and the Texas General Land Office under separate review;

8. The applicant shall coordinate any/all dune enhancement plans with the Development Services Department; and,

9. The applicant must adhere to all aspects of Section 29: Planning-Beach Access Dune Protection & Beachfront Construction.

**ERP PRACTICABLE DEFINITION**

Practicable means available and capable of being done after taking into consideration existing building practices, siting alternatives, and the footprint of the structure in relation to the area of the building portion of the lot, and considering the overall development plan for the property.

**TEXAS ADMINISTRATIVE CODE PRACTICABLE DEFINITION 15.2(57)**

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.
Respectfully Submitted,

Virginia Greb
Virginia Greb
Coastal Resources Assistant Manager

Catherine Gorman, AICP
Assistant Planning Director / HPO

01/02/20
Date

01/02/20
Date
Attachment “A”
Aerial Map
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. The data presented on these pages is not legally binding on the City of Galveston or any of its departments. These maps and the associated data are representations ONLY and may contain errors in the databases. Therefore, the information presented on this map is for informational purposes only and should not be construed to be legally binding.
Attachment “B”
Topographic Survey
Survey of Lot Four (4) of STAVANGER BEACH, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Plat Record 18, Map No. 703, of the Map Records in the Office of the County Clerk of Galveston County, Texas.

I hereby certify that on the below date, the herein described property, together with improvements located thereon, was surveyed on the ground and under my direction, and that this map, together with dimensions as shown hereon, accurately represents the facts as found on the ground this date.

Brian S. House
Registered Professional Land Surveyor No. 6520

NOTES:
1) This property does lie within the 100 Year Flood Plain as established by the Federal Emergency Management Agency.
2) This property is subject to any restrictions of record and may be subject to setbacks from power lines as established by GSHA (call your power company).
3) Bearings based on Monumentation, of South R.O.W. line of San Luis Pass Road, being a found 1 inch pipe at the Northeast corner of Lot 16, and a found 1 inch pipe at the Northeast corner of Lot 3.
4) Elevations are shown in feet above Mean Sea Level NAVD 88 Datum as tied to NGS Monument HCC6 62.
5) Surveyed without benefit of a Title Report.
Attachment “C”
Site Plan
&
Drawings
ATTENTION OWNER/CONTRACTOR:

DESIGN FEE. FEES PAID TOWARDS INSPECTIONS DO NOT GUARANTEE A WPI-2 WILL BE SUBMITTED TO TDI, UNLESS OWNER/CONTRACTOR HAS COMPLIED WITH ALL TDI WINDSTORM REQUIREMENTS AND PROVIDE ENGINEER COPIES OF MATERIAL RECEIPTS & PRODUCT EVALUATIONS. COMPLIED WITH ALL TDI WINDSTORM REQUIREMENTS AND PROVIDE ENGINEER COPIES OF MATERIAL RECEIPTS & PRODUCT EVALUATIONS.

Component and Cladding pressures for window/door selection: All components must be certified to these pressures and compliant with Texas Windstorm Product Requirements. Refer to Texas Department of Insurance, Windstorm Product Approvals for acceptable products. Clips and Straps, unless otherwise noted:

<table>
<thead>
<tr>
<th>Description</th>
<th>Date</th>
<th>Revision</th>
<th>Description</th>
</tr>
</thead>
<tbody>
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<td>12/11/19</td>
<td>NO-REBAR NOTE</td>
<td></td>
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<tr>
<td>#4</td>
<td>12/11/19</td>
<td>TAM</td>
<td></td>
</tr>
<tr>
<td>#5</td>
<td>12/11/19</td>
<td>WOOD PILE INSTALLATION</td>
<td></td>
</tr>
<tr>
<td>#6</td>
<td>12/11/19</td>
<td>PILE TO STRINGER &amp; STRINGER TO FLOOR JOIST HOLDDOWN</td>
<td></td>
</tr>
<tr>
<td>#7</td>
<td>12/11/19</td>
<td>FRAME &amp; CLIP</td>
<td></td>
</tr>
<tr>
<td>#8</td>
<td>12/11/19</td>
<td>SHEATH &amp; DECK</td>
<td></td>
</tr>
<tr>
<td>#9</td>
<td>12/11/19</td>
<td>DOORS &amp; WINDOWS AT TIME OF INSTALLATION</td>
<td></td>
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<tr>
<td>#10</td>
<td>12/11/19</td>
<td>ROOF SHINGLES AND A/C ANCHORED (FINAL)</td>
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</tr>
<tr>
<td>#11</td>
<td>12/11/19</td>
<td>COVER SHEET</td>
<td></td>
</tr>
</tbody>
</table>

This construction set must be on site at time of all inspections (along with updated PDF copies of Material Receipts & TDI Product Evaluation sheets)

DOORS, WINDOWS & IMPACT PROTECTION

ATTENTION OWNER/CONTRACTOR:

ON-SITE INSPECTIONS, TO COMPLY WITH CERTIFICATION REQUIREMENTS IS AN ADDITIONAL COST AND IS NOT INCLUDED IN THE ENGINEERING DESIGN FEE. FEES PAID TOWARDS INSPECTIONS DO NOT GUARANTEE A WPI-2 WILL BE SUBMITTED TO TDI, UNLESS OWNER/CONTRACTOR HAS COMPLIED WITH ALL TDI WINDSTORM REQUIREMENTS AND PROVIDE ENGINEER COPIES OF MATERIAL RECEIPTS & PRODUCT EVALUATIONS.

OWNER/CONTRACTOR RESPONSIBILITY TO INSTALL ALL EXTERIOR COMPONENTS AND CLADDING PER TDI INSTALLATION INSTRUCTIONS FOR THE APPROPRIATE WIND PRESSURES STATED IN THIS SET OF ENGINEERED DRAWINGS. FIND ALL TDI INSTALLATION INSTRUCTIONS AT THE WEB SITE BELOW:


+ OWNER/CONTRACTOR TO PROVIDE PDF COPIES OF RECEIPTS FOR ALL MATERIALS (DOORS, WINDOWS, CLIPS, STRAPS, NAILS, ROOFING MATERIALS & SIDING) ALONG WITH TDI PRODUCT EVALUATION PRIOR TO FINAL INSPECTION AND CERTIFICATION.

THIS CONSTRUCTION SET MUST BE ON SITE AT TIME OF ALL INSPECTIONS (ALONG WITH UPDATED PDF COPIES OF MATERIAL RECEIPTS & TDI PRODUCT EVALUATION SHEETS)

1 WOOD PILE INSTALLATION
2 PILE TO STRINGER & STRINGER TO FLOOR JOIST HOLDDOWN
3 FRAME & CLIP
4 SHEATH & DECK
5 DOORS & WINDOWS AT TIME OF INSTALLATION
6 SIDING AT TIME OF INSTALLATION AND WINDOW COVERING (IF WINDOWS ARE NON-IMPACT RATED)
7 ROOF SHINGLES AND A/C ANCHORED (FINAL)

TDI REQUIREMENTS - DOORS, WINDOWS & IMPACT PROTECTION

INLAND II (110 MPH) WINDOW & DOOR DEBRIS RESISTANT OR SHUTTER REQ.

In the Inland II zone, there are no requirements for windborne debris. Please refer to the Texas Revisions for specific windborne debris requirements.

INLAND I (120 MPH) WINDOW & DOOR DEBRIS RESISTANT OR SHUTTER REQ.

In the Inland I zone, on all new construction, additions, renovations, and repairs, all “glazed” openings are required to be protected from windborne debris. This means that windows, skylights, doors with glazing and garage doors with glazing must be either windborne debris resistant or protected from windborne debris with an impact protective system (shutter). Please refer to the Texas Revisions for specific windborne debris requirements.

SEAWARD (130 MPH) WINDOW & DOOR DEBRIS RESISTANT OR SHUTTER REQ.

In the Seaward zone, on all new construction, additions, renovations, and repairs, all exterior openings are required to be protected from windborne debris. This means that windows, skylights, doors, and garage doors must be either windborne debris resistant or protected from windborne debris with an impact protective system (shutter). Please refer to the Texas Revisions for specific windborne debris requirements.

IMPACT RESISTANT GUIDE

The Texas Department of Insurance will accept, for review, test reports for building products that have been tested in accordance with either: (1) ASTM F 1886-04 and ASTM E 1996-04; (2) AAMA 506-00; or (3) ANSI/DASMA 115-203 for garage doors, or (4) Dade County, FL, TIAS-201, TAS-202, and TAS-203 except for windows and glass doors that must comply with the testing and labeling criteria specified in Section R308.612.1 of the Texas Revisions to the IRC and Section 2405.7.1 of the Texas Revisions to the IBC.

DOORS

The Engineer-of-Record must be contacted when conflicts in structural requirements are discovered. Do not proceed until resolution of conflicts are complete.

Soft ceilings of all open decks with 5/8", 6" nail spacing, 10d nailing

MINIMUM DESIGN LIVE LOAD CONDITIONS

BASED ON TABLE R301.3

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<tr>
<th>Attic Type</th>
<th>Live Load</th>
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<td>Limited Storage</td>
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BALKONIES (EXTERIOR) AND DECKS:

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GUARDRAILS AND HANDRAILS:

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GUARDRAIL AND INFILL COMPONENTS:

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<td>50 LBS</td>
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ROOMS OTHER THAN SLEEPING ROOMS:

<table>
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<tr>
<th>Type</th>
<th>Live Load</th>
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<td>40 PSF</td>
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SLEEPING ROOMS:

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STAIRS:

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FLOOR:

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WALLS:

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<th>Live Load</th>
</tr>
</thead>
<tbody>
<tr>
<td>11 PSF</td>
<td></td>
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</table>

NO REBAR TO BE INSTALLED IN CONCRETE FIBERCRETE SLAB
PILE & SLAB PLAN

A/C AREA FIRST FLOOR 1635 SQUARE FEET
A/C AREA TOTAL 3355 SQUARE FEET

(33) 12"x12"x26'-0" LONG PILINGS
(3) 8"x8"x26'-0" LONG PILINGS

1. PILINGS SET 1' DEPTH UP
   2'-0" MINIMUM ALLOWABLE DEPTH
   AND PILING IS 0.60 PRESSURE TREATED
2. CONCRETE SLAB TO BE SET AT 3'-6" (verify with elevation survey & adjust accordingly)
3. VE ZONE: BFE BOTTOM OF STRINGER IS 14' (verify with elevation survey & adjust accordingly)
4. DISTANCE FROM SLAB TO BOTTOM OF STRINGER: 10'-6" (verify with elevation survey & adjust accordingly)
5. NOTIFY CITY INSPECTOR AND ENGINEER OF RECORD ANY ADJUSTMENT IN HEIGHT. CONTRACTOR/OWNER TO VERIFY WITH THEIR INSURANCE COMPANY REQUIRED HEIGHT ABOVE BFE.

(3) 8"x8"x26'-0" LONG PILINGS

GROUND FLOOR SLAB
(4' x 4' fibercrete concrete breakaway slab grid)
A/C AREA GROUND FLOOR 246 SQUARE FEET
A/C AREA FIRST FLOOR 1635 SQUARE FEET
A/C AREA TOTAL 3355 SQUARE FEET
DECKS/PORCHES 805 SQUARE FEET

FIBERFORCE 350 - FIBERCRETE
Cutting-edge fiber that reduces excess plastic, extends service life and enhances performance. The newly engineered PP350 has the same performance of its predecessors, but has been designed to be introduced at a lower rate of 1lb per cubic yard of concrete as opposed to the industry standard 1.5lbs.

Application:
Residential and Commercial Multilevel

Description for Use:
FiberForce 350 is an ultra-low density (filler) fiber manufactured from 100% virgin thermoplastic polypropylene resin. The enhanced fibration pattern was designed to optimize mechanical bond between the mortar mix and the fiber network, and due to the low density, considerably more fibrous handles are introduced in the concrete mix than providing increased plastic and drying shrinkage crack resistance as is compared to other microsynthetic fibers.

Physical Properties:
- Maxculp: 0.99 Virgin polypropylene
- Absorption: Nil
- Specific Gravitiy: 0.91
- Alkali Resistance: Excellent
- Electrical Conductivity: Low
- Standard Length: 75 in (190mm)
- Other Available Lengths: 25 in (64-mm), 50 in (127-mm), 1.5 m (38 mm)

Product Approvals & Compliance with Industry Standards:
- ASTM C1116 Section 4.1.5 and Note 2
- IBC AC 33 Section 3.1.1
- IBC US AC 33 Section 3.1.2
- Listed in ICC ESRI-1099

NO REBAR TO BE INSTALLED IN CONCRETE SLAB
Total required number of 10d galvanized common nails (divided equally between top and bottom and evenly spaced) for wood-frame breakaway wall configurations (design wind speed = 130 mph)

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<th>Breakaway Wall Height (feet)</th>
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<td>Nails Required for 9-foot Pile Spacing</td>
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<tr>
<td>Nails Required for 10-foot Pile Spacing</td>
<td>27</td>
<td>33</td>
<td>38</td>
<td>42</td>
</tr>
<tr>
<td>Nails Required for 12-foot Pile Spacing</td>
<td>34</td>
<td>40</td>
<td>44</td>
<td>50</td>
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</tbody>
</table>

Wood-frame and steel stud-frame breakaway wall panels shall not be attached to the pilings or other vertical foundation members. Only the tops and bottoms of wall panels shall be connected to permanent 2x4 or 2x6 nailing plates. High-capacity connectors such as bolts, lag screws, metal straps, or hurricane fasteners shall not be used.

The exterior sheathing on breakaway wall panels shall neither overlap nor be attached to the vertical foundation members.

Breakaway wall sheathing and siding shall be discontinuous at elevated floor beams and joints; horizontal separation joints shall be provided to prevent damage to the sheathing or siding above the floor of the elevated building. A watertight seal shall be provided for separation joints to prevent wind-driven rain water and sea spray from entering the building envelope. A similar vertical sealed joint may be needed in front of the pilings.

Utilities, including electrical wiring, breaker boxes, power meters, plumbing, conduits, and ventilation ducts, shall not be placed in or attached to breakaway wall panels. Building supply lines and other utility fixtures, such as light switches or electrical outlets, may be attached to the sheltered side of vertical foundation members as allowed by applicable building codes and floodplain management regulations (which generally require that utilities be elevated above the BFE). If utility lines must be routed into or out of an enclosure, one or more of the walls shall be constructed with a utility blockout. Utility lines that pass through the blockout shall be independent of the wall and therefore will not be damaged if the wall panels break away.
Paving is not allowed beyond roof line. It is not allowed outside of habitable structure.

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Paving is not allowed beyond roof line. It is not allowed outside of habitable structure.
1. Walkover width 6'-0". Elevated a minimum of 4'-0" above the highest point of the dune.
2. All wood used will be treated, bolts and connectors galvanized or stainless steel.
3. Stairway perpendicular at seaward – end of beach beyond any coppice mounds no further than 10'-0" seaward of vegetation line.
4. Decking 2"x6" w/1/2" spacing.
5. Posts 4"x4" imbedded 6'-0" into ground. Stringers/pickets 2"x8".
6. Owner to meet all local codes and separately arrange for all required city inspections.
1 Walkover width 6'-0". Elevated a minimum of 4'-0" above the highest point of the dune.
2 All wood used will be treated, bolts and connectors galvanized or stainless steel.
3 Stairway perpendicular at seaward – end of beach, beyond any coppice mounds no further than 10'-0" seaward of vegetation line.
4 Decking 2"x6" w/1/2" spacing
5 Posts 4"x4" imbedded 4'-0" into ground. Stringers/joists 2"x8"
6 Owner to meet all local codes and separately arrange for all required city inspections
Attachment “D”
Site Photos
Attachment “E”
GLO Comment Letter
December 18, 2019

Virginia Greb  
Coastal Resources Assistant Manager  
Development Services Department  
City of Galveston  
823 Rosenberg, Room 401  
Galveston, Texas 77550-2103

Via Electronic Mail

Beachfront Construction Certificate and Dune Protection Permit in the City of Galveston

Site Address: 24535 San Luis Pass Rd, Galveston
Legal Description: ABST 121 Hall & Jones Sur Lot 4 Stavanger Beach Sub
Lot Applicant: SDS Properties LLC – Steve Spears c/o Wright Way Co. – James Wright
Case Number: 19P-063
GLO ID No.: BDCOG-19-0314a

Dear Ms. Greb:

The General Land Office (GLO) has reviewed the amended application materials for a beachfront construction certificate and dune protection permit for the above-referenced location. The applicant proposes to construct a single-family residence with a fibercrete driveway. The applicant also proposes to construct a dune walkover. The proposed single-family residence is located more than 200 feet from the line of vegetation, within the Enhanced Construction Zone, and adjacent to the Dune Conservation Area. According to the Bureau of Economic Geology, the area is eroding at a rate of three to four feet per year.

Based on the information provided to our office for review, we have the following comments:

- There are numerous existing dune walkovers within this subdivision. The City must minimize the proliferation of excessive private access by permitting only the minimum necessary number of private beach access points to the beach from any subdivision.¹

- The applicant may not damage any dune vegetation or clear or remove any vegetation on either side of proposed walkover for the purpose of facilitating construction.²

- The applicant should terminate the dune walkover no farther seaward than the line of vegetation.³ Dune walkovers may not impede or restrict public access to the beach at normal high tide.⁴

³ 31 Tex. Admin. Code § 15.7(g)(1).
⁴ 31 Tex. Admin. Code § 15.7(g)(2).
• The City shall require the applicant to relocate the walkover to follow any landward migration of
the public beach or seaward migration of dunes.\(^5\)

• With the exception of the paired posts constructed on each side of the proposed dune walkover,
the support posts must be placed at intervals no closer than six feet and in such a manner that
new posts are not needed if the walkway requires relocation or elevation in the future.\(^6\)

• The proposed dune walkover must be constructed to maintain \(\frac{1}{2}\)-inch spacing between the slats
to allow rain and sand to pass through the decking.\(^7\)

• Concrete may not be used to stabilize the base of the pilings of the dune walkover.\(^8\)

• The dune walkover shall be constructed at a height above the highest dune of not less than the
width of the dune walkovers and maintain this height over the entire dune area.\(^9\)

• Construction of the proposed dune walkover should conform to the GLO’s guidelines provided
in the Dune Protection and Improvement Manual for the Texas Gulf Coast, which is located at
http://www.glo.texas.gov/coast/coastal-management/forms/files/dune-protection-manual-
gpb.pdf.

• The proposed habitable structure must be located as far landward as practicable.\(^10\)

• The applicant does not propose to construct the habitable structure within the Dune Conservation
Area and is prohibited from doing so without an exemption.\(^11\)

• In the area seaward of 25 feet from the north toe of the dune, paving or altering the ground,
which includes the use of fibercrete and crushed rock, is not proposed in this application and is
prohibited.\(^12\)

• In the area 150 feet landward of the north toe of the dune complex, paving used under the
habitable structure and for driveways connecting the habitable structure and the street is limited
to the use of unreinforced fibercrete in four-foot by four-foot sections, four-inches thick with
sections separated by expansion joints or pervious material.\(^12\) A habitable structure is defined as
a structure used or usable for habitation.\(^14\) The area beneath uncovered decks or stairs may not be
paved. The use of reinforced concrete is prohibited in this area.

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\(^5\) 31 Tex. Admin. Code § 15.7(g)(4).
\(^6\) City of Galveston Beach Access Plan § 29-90(e)(2).
\(^7\) City of Galveston Beach Access Plan § 29-90(e)(5).
\(^8\) 31 Tex. Admin. Code § 15.6(f)(3).
\(^9\) City of Galveston Beach Access Plan § 29-90(e)(1).
\(^10\) City of Galveston Beach Access Plan § 29-90(i)(2)(f), City of Galveston Erosion Response Plan § 5 and 31 Tex. Admin.
Code § 15.6(b).
\(^12\) City of Galveston Erosion Response Plan § 5.
\(^13\) City of Galveston Erosion Response Plan § 4.
\(^14\) City of Galveston Beach Access Plan § 29-54.
The GLO recommends that the applicant merges the proposed driveway with the existing ingress-egress drive that services the site and the adjacent lot.

The driveway must be limited to the linear width of the primary structure, along the main street, and a minimum of 15% of the front yard must be maintained as open/unimproved area.\(^{15}\)

The applicant proposes to construct an enclosure beneath the habitable structure. The City may only permit the applicant to construct an enclosure beneath the habitable structure if the walls are breakaway or louvered and the construction is consistent with the requirements of the National Flood Insurance Program.\(^{16}\)

The City must ensure the proposed construction is consistent with at least the minimum FEMA requirements or with the FEMA approved local ordinance.\(^{17}\)

The City must ensure the proposed habitable structure is designed for feasible relocation.\(^{18}\)

The proposed construction activities must not result in the potential for increased flood damage to the proposed construction site or adjacent property, result in runoff or drainage patterns that aggravate erosion, cause significant changes to dune hydrology, adversely affect dune complexes or dune vegetation, or significantly increase the potential for washovers or blowouts to occur.\(^{19}\)

The City shall not issue a certificate or permit authorizing construction unless the construction activities will minimize impacts on natural hydrology. Such projects shall not cause erosion of adjacent properties, critical dune areas, or the public beach.\(^{20}\)

Please be advised that the line of vegetation is dynamic. Structures may not encroach on the public beach. If the structure becomes located seaward of the line of vegetation because of loss of elevation, the structure may be allowed to remain in place if it does not significantly interfere with public access to the beach or present a public health and safety risk. Structures located seaward of the line of vegetation and landward of the line of mean high tide will periodically be reassessed on a case-by-case basis, and owners may be allowed to make certain repairs under the Beach/Dune rules and local government plans.

If any part of a structure comes to be located seaward of the line of mean high tide, it becomes an unauthorized structure on state-owned lands. Repairs are prohibited and the state may take action to remove the structure.\(^{21}\)

If you have any questions, please contact me at (512) 463-5232 or at michelle.culver@glo.texas.gov.

Sincerely,

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\(^{15}\) City of Galveston Erosion Response Plan § 5.
\(^{16}\) 31 Tex. Admin. Code § 15.6(f)(4).
\(^{17}\) 31 Tex. Admin. Code § 15.6(e)(3).
\(^{18}\) 31 Tex. Admin. Code § 15.6(f)(2).
\(^{19}\) 31 Tex. Admin. Code § 15.4(d).
\(^{20}\) 31 Tex. Admin. Code § 15.6(g).
Ms. Greb
December 18, 2019
Page 4 of 4

Michelle Culver
Beach Access & Dune Protection Program
Coastal Resources Division
Texas General Land Office

cc: Dustin Henry, Coastal Resources Manager
Executive Summary:
The City of Galveston recently received notification from the Attorney General of Texas’s Office that the Land Development Regulations for gun shops and shooting ranges are not in compliance with state law.

Texas law prohibits local governments from adopting regulations relating to the transfer, possession, ownership, storage, or transportation of firearms and ammunition (Texas Local Government Code 229.001(a)(1)). The Attorney General’s letter identifies the following issues:

- Prohibition of outdoor shooting ranges;
- Limiting the hours of shooting ranges;
- Distance of “Gun Shops” from schools, public parks, or places of worship; and
- Decibel level requirements for shooting ranges.

Current Situation – Gun Shop:
The “Gun Shop” land use has the following definition:

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Gun Shop means any premise or portion thereof used principally for the sale of firearms, ammunition and/or ammunition components, or hunting-related shooting equipment. The term does not include a department or specialty sales area that occupies less than half the floor area of a sporting goods or general merchandise store.
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Establishments selling guns that do not meet the floor area requirement above are classified under the “Retail – Commercial” or “Retail – Big Box” land uses.

“Gun Shop” is a Limited land use in the Commercial (C), Central Business (CB), Resort/Recreation (RES/REC), Light Industrial (LI), and Heavy Industrial (HI) zoning districts. In order to operate in these zoning districts the following Limited Standards must be met:

1. Proof of Permitting. The applicant shall provide proof of application for any permits required by the State of Texas or the Federal Government at the time of application for limited use approval, and shall provide proof of issuance of any required licenses before commencing operations.
2. Use Limitation. Outdoor shooting ranges are prohibited.
3. Minimum Distance from Certain Locations. The use shall be located at least 200 feet from a school, public park or place of worship, measured as a radius from property lines of the limited use.
4. Scale of Use. In the C, CB, REC/RES districts, a gun shop with an indoor firing range shall be developed on a tract or lot with a minimum area of 20,000 square feet.
5. Noise Limitation. Outdoor noise levels shall be maintained at the same noise decibel existing prior to the development of a firing range.

In order to address the Attorney General’s concerns, Staff is recommending that the “Gun Shop” land use be eliminated which will entail removing it from Table 2.201, deleting the corresponding Limited Use standards, and deleting the definition. By eliminating the land use specific to gun shops, in the future all retail gun sales will be classified as “Retail – Commercial” or “Retail – Big Box.” The difference between those two land uses is the scale of the use. In order to be classified as “Retail – Big
Current Situation – Gun Shop, Continued

“Retail – Commercial” is permitted by right in the following districts:
Residential, Single-Family, Historic (R-3) location standards apply; Urban Neighborhood (UN) location standards apply; Neighborhood Services (NS); Traditional Neighborhood (TN); Commercial (C); Central Business (CB); Resort/Recreation (RES/REC); Light Industrial (LI); and Heavy Industrial (HI).

“Retail – Big Box” is a Limited Use in the following districts:
Traditional Neighborhood (TN); Commercial (C); Resort/Recreation (RES/REC); Light Industrial (LI); and Heavy Industrial (HI).

In order to operate in those zoning districts, the following standards must be met:

1. Scale of Use. The gross interior floor area of the use shall not exceed 250,000 square feet, and outside areas used for outdoor merchandise display or storage shall not exceed 30 percent of the gross interior floor area.
2. Hours of Operation near Residential. When abutting or within 200 feet of a residential use or zoning district boundary, measured as a radius from property lines of the limited use, the use shall not have any outdoor sales or loading or delivery activities between the hours of 10:00 PM and 7:00 AM.
3. Truck Access. The use shall be located such that associated truck traffic can access a collector or arterial roadway without traveling on a public rights-of-way adjacent to any residential property, school, public park, recreational area, or facility.
4. Outdoor Surfaces. All outdoor areas used for merchandise display and storage shall have an improved hard surface.
5. Minimum Setback.
   a. Loading and Service Areas: 25 feet from any residential property line or zoning district boundary.
   b. Outdoor Merchandise Display/Sales and Other Outdoor Storage: 25 feet from any residential property line or zoning district boundary.
6. Location of Loading Bays. Loading bays shall be located on the side or rear of the site, oriented away from abutting public street right-of-ways, unless a residential use abuts the site to the side or rear.
7. Noise Limitation. All outdoor activities shall comply with City noise regulations. Additionally, any outdoor speakers shall be oriented toward the interior of the site and away from property lines, and shall not be operated before 8:00 AM or after 9:00 PM except to provide emergency notifications.
8. Residential Screening. When the site is located adjacent to a residential use or residential zoning district boundary, visual screening shall be provided along all common side and rear property lines. The screening shall consist of a landscaping strip at
least four feet in width that provides a year-round visual barrier, and positioned directly adjacent to the adjoining property. A solid masonry or concrete wall or a wood fence having a minimum height of five feet shall be installed immediately behind the landscaping strip.

9. Materials Management. Appropriate measures shall be taken to contain, cover, or otherwise secure materials stored outdoors that are likely to generate wind-blown dust or debris that may affect adjacent properties.

10. No Nuisance Created. The use shall not create or cause any perceptible noise, odor, smoke, electrical interference, or vibrations that constitute a public or private nuisance to neighboring properties.

Shooting ranges are included in several land uses including “Gun Shop,” “Commercial Amusement, Indoor,” “Commercial Amusement, Outdoor,” and “Recreation Outdoor”. In certain zoning districts, the “Commercial Amusement, Indoor” land use includes a Limited Standard that limits the hours of operation:

1. Hours of Operation near Residential. The use, if within 200 feet of the property line of a residential use, a mixed-use development that includes residential use, or a residential zoning district boundary, measured as a radius from property lines of the limited use, shall not operate between the hours of 12:00 AM and 8:00 AM.

Additionally, in certain zoning districts, the “Commercial Amusement, Outdoor” and “Recreation Outdoor” land uses prohibit outdoor shooting ranges.

In response to the Attorney General’s concerns, Staff is proposing to eliminate shooting ranges from the “Commercial Amusement” land uses by deleting references to shooting ranges in the definitions; delete the reference in “Recreation Outdoor”; and establish “Shooting Ranges” as a new and unlisted land use.

The new land use of “Shooting Ranges” is proposed to be permitted by right in the Commercial (C); Central Business (CB); Resort/Recreation (RES/REC); Light Industrial (LI); and Heavy Industrial (HI) zoning districts.

Per Section 13.203: Discretionary Approval and Designations of the Land Development Regulations:

Any proposed use that is not explicitly classified as a permitted, specific, temporary, or prohibited use shall be reviewed and considered by the City Council for classification. The City Council may either choose to interpret the proposed use as an existing classified use, or adopt it as a new use and designate it as a permitted, specific, temporary, or prohibited use based on
Criteria for Text Amendments

Consideration for Text Amendments

Per Section 13.700: Text Amendments of the Land Development Regulations:

Recommendations and decisions regarding petitions for amendments to the text of these regulations are legislative in nature, but shall be based on consideration of all the following criteria:

1. The proposed amendment will help to implement the adopted City of Galveston 2011 Comprehensive Plan or if it involves a topic that is not addressed or not fully developed in the City of Galveston 2011 Comprehensive Plan, the proposed amendment will not impair the implementation of the adopted City of Galveston 2011 Comprehensive Plan and other adopted special-area and special-topic plans when compared to the existing regulations.

2. The proposed amendment is consistent with the stated purposes of these regulations.

3. The proposed amendment will maintain or advance the public health, safety, or general welfare.

4. The proposed amendment will help to mitigate adverse impacts of the use and development of land on the natural or built environment, including, but not limited to mobility, air quality, water quality, noise levels, storm water management, wildlife protection, and vegetation or will be neutral with respect to these issues.

5. The proposed amendment will advance the strategic objectives of the City Council such as fiscal responsibility, efficient use of infrastructure, public services, and other articulated City objectives.

Per Section 13.700: Text Amendments of the Land Development Regulations:

Purposes: Text amendment proposals shall serve the following purposes:

1. Advancing the goals, objectives and policies of the City’s Comprehensive Plan and other adopted special-area and special-topic plans;

2. Securing adequate light, air, convenience of access, and safety from fire, flood and other danger;

3. Lessening or avoiding congestion in public ways; Promoting the public health, safety, comfort, morals, convenience and general welfare; and Otherwise accomplishing the purposes of Texas Local Government Code Chapter 211, Municipal Zoning Authority.

Considerations: In preparation and considering proposals for text amendments, the Planning Commission and City Council shall pay reasonable regard to:
1. The Comprehensive Plan and related plans;
2. Current conditions and the character of current uses and structures in each district;
3. The most desirable use for which the land in each district is adapted;
4. The conservation of property values throughout the jurisdiction; and
5. Responsible development and growth.

Other Reviews

The City Council has final decision making authority on this request and will hear it at the January 23, 2020 meeting.

Staff Recommendation

Staff recommends approval of the request as submitted.

Respectfully Submitted,

__________________________________________  _________________________
Catherine Gorman, AICP  Date 01/02/20
Assistant Director/HPO
December 17, 2019

Mayor James D. Yarbrough
Councilwoman Amy Carmen Bly
Councilman Craig Brown
Councilman David Collins
Councilman Jason Hardcastle
Councilman John Paul Listowski
Councilwoman Jackie Cole
Donald Glywasky, City Attorney
City of Galveston
P.O. Box 779
Galveston, Texas 77553

Re: Galveston ordinances that violate section 229 of the Texas Local Government Code

Dear Mayor James D. Yarbrough, Councilwoman Amy Carmen Bly, Councilman Craig Brown, Councilman David Collins, Councilman Jason Hardcastle, Councilman John Paul Listowski, Councilwoman Jackie Cole, and Mr. Donald Glywasky:

Texas law prohibits local governments from adopting “regulations relating to” transfer, possession, ownership, storage, or transportation of firearms and ammunition. Tex. Loc. Gov’t Code § 229.001(a)(1). Texas law likewise prohibits municipal regulation of “commerce in firearms” as well as ammunition. Id. at § 229.001(a)(2).

Finally, Texas law prohibits local regulation of “the discharge of a firearm or air gun at a sport shooting range.” Id. at § 229.001(a)(3). Cities such as Galveston are banned from limiting shooting range hours—let alone prohibiting them altogether—unless they are able to be open at least as much as certain bars. Id. at § 229.001(b)(8).

Furthermore, the Office of the Attorney General’s Opinions Committee recently interpreted this law and concluded that Texas law “prohibits municipal regulations relating to the transfer of firearms and firearm ammunition.” Tex. Att’y Gen. Op. No. KP-0252 (2019) at 2. It identified regulations like Galveston’s as prohibited under Texas law. Id. at 2, 4 (“Similarly, an ordinance singling out firearm and ammunition sales relates to the transfer of firearms and is therefore prohibited.”).

addition, the City of Galveston enacted noise limitations that appear to prohibit the development of any firing ranges at all. Id. at § 2.330(A)(5) (requiring all new gun ranges—but only gun ranges—to keep the precise decibel level of the previously-existing usage).1

Yet Texas law forbids such regulations.2 Tex. Loc. Gov’t Code § 229.001. As a result, the municipality lacked any authority to pass these ordinances and acted beyond its authority. The Attorney General may bring a lawsuit to enforce section 229 of the Local Government Code on behalf of the State of Texas. Tex. Loc. Gov’t Code § 229.001(f).

As you may be aware, the Texas Legislature recently amended section 229 of the Local Government Code, effective on September 1, 2019. Under the new version of the law, the Legislature authorized the Attorney General to recover attorneys’ fees, investigative costs, witness fees, and deposition costs from local governments. Tex. Local Gov’t Code § 229.001(f) (authorizing our office to bring an action and recover court costs, reasonable attorney’s fees, investigative costs, witness fees, and deposition costs).3

Texas law prohibits the regulations that the City of Galveston enacted that regulate the transfer and discharge of firearms at shooting ranges. The Office of the Attorney General demands that the City repeal these regulations and any like them immediately. Rather than file litigation now, we are confident that the City of Galveston intends to comply with Texas law and will rescind regulations that are in apparent violation of Texas law. Thus, we are giving the Galveston City Council an opportunity to reconsider these unlawful ordinances before February 1, 2020.

Sincerely,

Cleve W. Doty
Assistant Attorney General
Administrative Law Division
Office of the Attorney General
(512) 463-2100

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1 It is possible that other Galveston ordinances regulating gun shops and shooting ranges likewise violate Texas statutory law, Texas constitutional law, and federal constitutional law; this letter does not attempt to isolate every possible violation when it is apparent that numerous aspects of Galveston’s regulations violate a Texas statute.

2 Texas constitutional law and federal constitutional law may likewise prohibit these regulations. See, e.g., McDonald v. City of Chicago, 561 U.S. 742 (2010) (striking down a city regulation that regulated handgun ownership and transportation); Ezell v. City of Chicago, 846 F.3d 888 (7th Cir. 2017) (striking down local zoning regulations that prohibited gun ranges in ways similar to Galveston’s ordinances); Mance v. Sessions, 880 F.3d 183 (5th Cir. 2018) (applying a form of strict scrutiny to a gun regulation under a Second-Amendment analysis).

May 24, 2019

Ken Paxton
Attorney General of Texas

The Honorable Donna Campbell, M.D.  
Chair, Committee on Veterans Affairs
and Border Security  
Texas State Senate  
Post Office Box 12068  
Austin, Texas 78771-2068

Opinion No. KP-0252

Re: Authority of municipalities to regulate firearm and ammunition sales through zoning and other regulations (RQ-0269-KP)

Dear Senator Campbell:

You ask generally about the authority of a municipality to regulate firearm and ammunition sales through zoning and other regulations. You tell us that “some Texas cities have begun pursuing gun-control measures that regulate firearms and ammunition sales in ways that seem likely to impinge upon the individual freedoms of Texas citizens.” Request Letter at 1. You state that the regulations “include prohibitions against everything from sporting goods stores to gun shows within vast portions of some cities.” Id.

You refer us to Local Government Code subsection 229.001(a)(1), which prohibits a city from regulating “the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, . . . or firearm . . . supplies.” TEX. LOC. GOV’T CODE § 229.001(a)(1); Request Letter at 1. You tell us the San Antonio city attorney seems to construe this provision to allow a city to “freely regulate gun sales simply because it is not regulating licensing, registration, or transportation of firearms as well.” Request Letter at 1–2 (noting also that the City of San Antonio observed that the City of Galveston adopted such regulations). With this background, you ask three questions. See id. at 3–4.

You first ask whether section 229.001 of the Local Government Code preempts a city from enacting regulations that (1) prohibit firearm and ammunition sales within 1,000 feet of any school or church; (2) restrict the location of a business that sells guns or ammunition to the highest-density commercial areas; and (3) prohibit “gun shops” from locating within 200 feet of schools, public

1See Letter from Honorable Donna Campbell, M.D., Chair, Senate Comm. on Veterans Affairs & Border Sec., to Honorable Ken Paxton, Tex. Att’y Gen. at 1 (Feb. 4, 2019), https://www2.texasattorneygeneral.gov/opinion/requests-for-opinion-rqs (“Request Letter”).

2You cite to the recording of a meeting on September 26, 2018, of the City of San Antonio’s Public Safety Committee. See id. at 2, nn.1–5 (citing https://sanantonio.legistar.com/MeetingDetail.aspx?ID=639220&GUID=CA409134-DA36-45E0-ABE3-287F5528E91E&Options=info&Search=public+safety). The City of San Antonio informs us in briefing that it has not adopted any ordinance of the kind you describe. See Brief from Edward F. Guzman, Deputy City Att’y at 2 (Mar. 8, 2019) (on file with the Op. Comm.).
parks, or places of worship.\textsuperscript{3} \textit{Id.} at 2, 3. Local Government Code subsection 229.001(a)(1) provides that “n[otwithstanding any other law, ... a municipality may not adopt regulations relating to: (1) the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, knives, ammunition, or firearm or air gun supplies.” TEX. LOC. GOV’T CODE § 229.001(a)(1). Subsection 229.001(b)(3) creates an exception providing that the prohibition in subsection (a) does not affect a municipality’s authority under another law to “regulate the use of property, the location of a business, or uses at a business under the municipality’s fire code, zoning ordinance, or land-use regulations as long as the code, ordinance, or regulations are not used to circumvent the intent of Subsection (a).”\textsuperscript{4} \textit{Id.} § 229.001(b)(3).

Subsection 229.001(a)(1) prohibits municipal regulations relating to the transfer of firearms and firearm ammunition. \textit{Id.} § 229.001(a)(1). The term “transfer” is commonly understood to include a sale. \textit{See WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY} at 2427 (2002) (defining “transfer” to mean “the conveyance of right, title, or interest in either real or personal property from one person to another by sale, gift, or other process”); \textit{see also} TEX. PENAL CODE § 46.06 (providing for the offense of unlawful transfer of weapons that encompasses the sale, rental, lease, loan, or gift of a handgun). The regulations you describe prohibit or restrict a business or business location solely because the business involves the sale of firearms and ammunition. While subsection 229.001(b)(3) acknowledges a municipality’s ongoing authority to regulate the location of businesses generally, a regulation that expressly identifies and prohibits gun stores from operating in a specific area relates to the transfer of firearms and is prohibited by subsection 229.001(a)(1). Similarly, an ordinance singling out firearm and ammunition sales relates to the transfer of firearms and is prohibited.\textsuperscript{5}

You next ask whether subsection 229.001(a)(1) prohibits the listed actions only as a whole or as to any one of the listed actions. \textit{See Request Letter} at 4. In addressing your question, we recognize that the goal of statutory construction “is to ascertain and give effect to the Legislature’s intent.” \textit{Cadena Comercial USA Corp. v. Tex. Alcoholic Beverage Comm’n}, 518 S.W.3d 318, 325 (Tex. 2017). The surest sign of that intent is the plain language of the statute. \textit{See Prairie View A&M Univ. v. Chatha}, 381 S.W.3d 500, 507 (Tex. 2012). The list in subsection 229.001(a)(1)—the “transfer, private ownership, keeping, transportation, licensing, or registration of firearms, ... or firearm ... supplies”—uses the word “or.” TEX. LOC. GOV’T CODE § 229.001(a)(1) (emphasis added). The Legislature typically uses the word “or” as a disjunctive. \textit{See Spradlin v. Jim Walter Homes, Inc.}, 34 S.W.3d 578, 581 (Tex. 2000). “It separates words or phrases in the alternate

\textsuperscript{3}A home-rule municipality’s self-governing power is limited to the extent that it is “inconsistent with the Constitution ... or ... general laws” of the State. TEX. CONST. art. XI, § 5(a) (“[A] charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws ... of this State.”). A general law city may not adopt an ordinance, act, or law that is inconsistent with state law. \textit{See} TEX. LOC. GOV’T CODE § 51.012.

\textsuperscript{4}Local Government Code chapter 211 authorizes a city to regulate, among other things, “the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes.” \textit{Id.} § 211.003(a)(5); \textit{see also id.} § 211.001 (stating that zoning powers “are for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance”).

\textsuperscript{5}House Bill 3231, currently pending before the Legislature, revises section 229.001 with language that is consistent with this conclusion. \textit{See Tex. H. B. 3231, 86th Leg., R.S. (2019).}
relationship, indicating that either of the separated words or phrases may be employed without the other.” Jones v. State, 175 S.W.3d 927, 932 (Tex. App.—Dallas 2005, no pet.) (citing Perez v. State, 11 S.W.3d 218, 225 (Tex. Crim. App. 2000)). The Legislature’s use of the disjunctive here evidences its intent to treat the listed activities in subsection 229.001(a)(1) as separate alternatives. Thus, subsection 229.001(a)(1)’s prohibition encompasses any one (or more) of the listed items. Accordingly, to the extent a municipality regulates the transfer of firearms but not also licensing, registration, or transportation of firearms, it nonetheless violates subsection 229.001(a)(1).

Your last question concerns the consequences to the members of the city council for violating either section 229.001 or the Texas or the U.S. Constitution. See Request Letter at 4. Subsection 229.001(f) authorizes the Attorney General to “bring an action in the name of the state to obtain a temporary or permanent injunction against a municipality adopting a regulation in violation of this section.” Tex. Loc. Gov’t Code § 229.001(f). In addition, any plaintiff with standing under the Texas Constitution or the U.S. Constitution could bring an action seeking declaratory or injunctive relief against enforcement of an unconstitutional ordinance. See 28 U.S.C. § 2201 (federal declaratory judgments); Tex. Civ. Prac. & Rem. Code § 37.003 (state declaratory judgments). Individual city council members who voted on a zoning ordinance ultimately found to violate Local Government Code section 229.001 or the Texas or the U.S. Constitution would likely be immune from personal liability. See Harlow v. Fitzgerald, 457 U.S. 800, 818–19 (1982) (discussing federal qualified immunity); Kassen v. Hailey, 887 S.W.2d 4, 8–12 (Tex. 1994) (discussing state official immunity).

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4In considering the issue of qualified immunity, one justice observed:

To some observers, qualified immunity smacks of unqualified impunity, letting public officials duck consequences for bad behavior—no matter how palpably unreasonable—as long as they were the first to behave badly. Merely proving a constitutional deprivation doesn’t cut it; plaintiff must cite functionally identical precedent that places the legal question “beyond debate” to “every” reasonable officer. Put differently, it’s immaterial that someone acts unconstitutionally if no prior case held such misconduct unlawful.

SUMMARY

Subsection 229.001(a)(1) of the Local Government Code prohibits a municipality from regulating the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, knives, ammunition, or firearm or air gun supplies. Subsection 229.001(b)(3) exceptions from this prohibition a municipality’s regulation on the use of property or businesses and the location of businesses as long as the regulation does not circumvent the intent of subsection (a)(1). A regulation that expressly prohibits gun stores from operating in a specific area relates to the transfer of firearms and is prohibited by subsection 229.001(a)(1). Similarly, an ordinance singling out firearm and ammunition sales relates to the transfer of firearms and is therefore prohibited.

A court would likely conclude subsection 229.001(a)(1)’s prohibition encompasses any one or more of the listed items. To the extent a municipality regulates firearm transfers but not also licensing, registration, or transportation of firearms, it acts contrary to subsection 229.001(a)(1).

A violation of section 229.001 may be enforced by the Attorney General. Any plaintiff with standing under the Texas Constitution or the U.S. Constitution could bring an action seeking declaratory or injunctive relief against enforcement of an unconstitutional ordinance. Individual city council members who voted on a zoning provision that is ultimately found to violate section 229.001 or the Texas or the U.S. Constitution would likely be immune from personal liability.

Very truly yours,

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

RYAN L. BANGERT
Deputy Attorney General for Legal Counsel
VIRGINIA K. HOELSCHER
Chair, Opinion Committee

CHARLOTTE M. HARPER
Assistant Attorney General, Opinion Committee
LAND DEVELOPMENT REGULATIONS of 2015

City of Galveston, Texas

Updated September 2019

Please Note: As Ordinances are adopted by City Council portions of these regulations may be amended or omitted. It is the responsibility of the book user to obtain the most current information regarding the Land Development Regulations from the Department of Development Services.
3. **Orientation of Service Bays.** Service or repair bays associated with the use shall be oriented away from arterial roadways and any adjacent residential use or residential zoning district boundary.

4. **Outdoor Display.** Outdoor vehicle display shall occur only on paved areas of the site; the displayed vehicles shall not occupy or obstruct required parking spaces.

5. **Elevated Display.** No more than one outdoor elevated display shall be permitted; the elevated display shall raise the golf cart no more than 3 feet off the ground.

6. **Screening.** Except in the CB district, when the site is located adjacent to a residential use or residential zoning district boundary, visual screening shall be provided along all common sides and rear property lines. The screening shall consist of a solid landscaping strip of at least 4 feet in width that provides a year-round visual barrier, and positioned directly adjacent to the adjoining property. A solid masonry or concrete wall or a wood fence having a minimum height of five feet shall be installed immediately behind the landscaping strip.

7. **Sidewalks.** Sidewalks, curbs, and curb cuts shall be provided on all street frontages. All on-site sidewalks shall be a minimum width of five feet.

8. **Property Maintenance.** The property upon which any used car lot is located must be maintained in a neat and orderly manner with no accumulation of inoperable golf carts, tires, gold cart parts, garbage, refuse, or debris on the property.

**SEC. 2.330 GUN SHOP**

A. **Limited Use Standards.**

1. **Proof of Permitting.** The applicant shall provide proof of application for any permits required by the State of Texas or the Federal Government at the time of application for limited use approval, and shall provide proof of issuance of any required licenses before commencing operations.

2. **Use Limitation.** Outdoor shooting ranges are prohibited.

3. **Minimum Distance from Certain Locations.** The use shall be located at least 200 feet from a school, public park or place of worship, measured as a radius from property lines of the limited use.

4. **Scale of Use.** In the C, CB, REC/RES districts, a gun shop with an indoor firing range shall be developed on a tract or lot with a minimum area of 20,000 square feet.

5. **Noise Limitation.** Outdoor noise levels shall be maintained at the same noise decibel existing prior to the development of a firing range.

**SEC. 2.331 HEAVY INDUSTRY**

A. **Limited Use Standards.**

1. **Truck Access.** The use shall be located such that associated truck traffic can access a collector or arterial roadway or highway without traveling on a public street rights-of-way adjacent to any residential property, school, public park, recreational area, or facility.
<table>
<thead>
<tr>
<th>Commercial Land Uses</th>
<th>R-0</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
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## Commercial Land Uses

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### Table 2.201

**Permitted Uses: Industrial, Public/Private Uses**

- **P** = permitted use; **L** = limited use; **S** = specific use review; "-" = prohibited use

### Zoning Districts

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<th>R-1</th>
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<tr>
<td>Automotive Wrecking and Salvage Yard, Junkyard; Recycling Business</td>
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1. **Accessory Laboratory Activity.** Laboratory activity shall occur only as an accessory use to a principal clinic or medical office use.

2. **Scale of Use.** The floor area of the use shall not exceed 2,500 square feet.

3. **Hours of Operation.** The use shall not operate between the hours of 8:00 PM and 8:00 AM, and shall not provide for overnight stays by those receiving care.

4. **Residential Character in UN District.** In the UN district, if operated within a pre-existing dwelling, the use shall maintain the residential character and appearance of the structure.

5. **Design Standards.** In the UN District, the use must comply with urban design standards established in the UN District.

**SEC. 2.318 COMMERCIAL AMUSEMENT, INDOOR**

**A. Limited Use Standards.**

1. **Hours of Operation near Residential.** The use, if within 200 feet of the property line of a residential use, a mixed-use development that includes residential use, or a residential zoning district boundary, measured as a radius from property lines of the limited use, shall not operate between the hours of 12:00 AM and 8:00 AM.

2. **Screening.** When the site is located adjacent to a residential use or zoning district boundary, visual screening shall be provided along all common side and rear property lines. The screening shall consist of a landscaping strip at least 4 feet in width that provides a year-round visual barrier, and positioned directly adjacent to the adjoining property. A solid masonry or concrete wall or a wood fence having a minimum height of five feet shall be installed immediately behind the landscaping strip.

3. **No Nuisance Created.** The use shall not create or cause any perceptible noise, odor, smoke, electrical interference, or vibrations that constitute a public or private nuisance to neighboring properties.

**SEC. 2.319 COMMERCIAL AMUSEMENT, OUTDOOR**

**A. Limited Use Standards.**

1. **Use Limitations.** Outdoor shooting ranges for firearms shall not be permitted. Drive-in theaters, golf driving ranges, and go cart tracks shall not be permitted in the CB district.

2. **Hours of Operation near Residential.** The use, if within 200 feet of the property line of a residential use, of a mixed-use development that includes residential use or a residential zoning district boundary, measured as a radius from property lines of the limited use, shall not operate between the hours of 12:00 AM and 8:00 AM.

3. **Noise Limitation.** All on-site activities and events shall comply with the City’s noise regulations. Additionally, any outdoor speakers shall be oriented toward the interior of the site and away from property lines.

**SEC. 2.320 COMMERCIAL LODGING (HOTEL) (ORD. 18-024)**

This Section applies to New Construction or to those properties with proposed improvements that constitute a “substantial improvement, “meaning that the reconstruction cost or area of reconstruction is greater than 50 percent of the cost of replacement of the building, the building shall only be reconstructed if in conformity with these regulations.
4. **Noise Limitation.** All Outdoor Flea Market Operations shall comply with the City’s noise regulations. Additionally, any outdoor speakers shall be oriented toward the interior of the site and away from property lines.

**SEC 2.329 GOLF CARTS, SALES AND SERVICE**

A. **Limited Use Standards.**

1. **Use Limitation in CB Districts.** The use shall be conducted in existing structures only. No outside repair or display/sales of golf carts permitted.

2. **Seawall Frontage.** No new or expanded surface parking permitted for this use on properties with frontage on Seawall Boulevard.

3. **Orientation of Service Bays.** Service or repair bays associated with the use shall be oriented away from arterial roadways and any adjacent residential use or residential zoning district boundary.

4. **Outdoor Display.** Outdoor vehicle display shall occur only on paved areas of the site; the displayed vehicles shall not occupy or obstruct required parking spaces.

5. **Elevated Display.** No more than one outdoor elevated display shall be permitted; the elevated display shall raise the golf cart no more than 3 feet off the ground.

6. **Screening.** Except in the CB district, when the site is located adjacent to a residential use or residential zoning district boundary, visual screening shall be provided along all common sides and rear property lines. The screening shall consist of a solid landscaping strip of at least 4 feet in width that provides a year-round visual barrier, and positioned directly adjacent to the adjoining property. A solid masonry or concrete wall or a wood fence having a minimum height of five feet shall be installed immediately behind the landscaping strip.

7. **Sidewalks.** Sidewalks, curbs, and curb cuts shall be provided on all street frontages. All on-site sidewalks shall be a minimum width of five feet.

8. **Property Maintenance.** The property upon which any used car lot is located must be maintained in a neat and orderly manner with no accumulation of inoperable golf carts, tires, gold cart parts, garbage, refuse, or debris on the property.

**SEC 2.330 GUN SHOP**

A. **Limited Use Standards.**

1. **Proof of Permitting.** The applicant shall provide proof of application for any permits required by the State of Texas or the Federal Government at the time of application for limited use approval, and shall provide proof of issuance of any required licenses before commencing operations.

2. **Use Limitation.** Outdoor shooting ranges are prohibited.

3. **Minimum Distance from Certain Locations.** The use shall be located at least 200 feet from a school, public park or place of worship, measured as a radius from property lines of the limited use.

4. **Scale of Use.** In the C, CB, REC/RES districts, a gun shop with an indoor firing range shall be developed on a tract or lot with a minimum area of 20,000 square feet.
5. **Noise Limitation.** Outdoor noise levels shall be maintained at the same noise decibel existing prior to the development of a firing range.

**SEC. 2.331-330 HEAVY INDUSTRY**

A. **Limited Use Standards.**

1. **Truck Access.** The use shall be located such that associated truck traffic can access a collector or arterial roadway or highway without traveling on a public street rights-of-way adjacent to any residential property, school, public park, recreational area, or facility.

2. **Minimum Distance from Residential.** The use shall be located at least 200 feet from any residential use or residential zoning district boundary, measured as a radius from property lines of the limited use.

3. **Noise Limitation.** The use shall not create or cause any perceptible noise, odor, smoke, electrical interference, or vibrations that constitute a public or private nuisance to neighboring properties.

4. **Use Limitation.** LI uses located in the HI district shall meet Heavy Industry Limited Use Standards.

5. **Commercial Composting.** Commercial composting is prohibited.

**SEC. 2.332-331 HEAVY VEHICLE, MANUFACTURED HOME SALES, WATERCRAFT, OR AIRCRAFT SALES OR RENTAL**

A. **Limited Use Standards.**

1. **Hours of Operation near Residential.** When abutting or within 200 feet of a residential use or zoning district boundary, measured as a radius from property lines of the limited use, the use shall not have any outdoor sales or loading or delivery activities between the hours of 10:00 PM and 7:00 AM.

2. **Truck and Trailer Access.** The use shall be located such that associated truck and trailer traffic can access an arterial roadway without traveling on a public rights-of-way adjacent to any residential property, school, public park, or recreational area.

3. **Minimum Setback.**
   
   c. **Outdoor Display or Sales and Other Outdoor Storage:** shall be located 25 feet from any residential property line or zoning district boundary.

   d. **Vehicle Wash Facilities:** Accessory vehicle wash facilities and their incidental functions, including vacuums and air compressors, shall be set back at least 50 feet from the side or rear property line of any adjacent residential use or residential zoning district boundary.

4. **Orientation of Service Bays.** Any service or repair bays associated with the use shall be oriented away from adjacent, public rights-of-way or any adjacent residential use or residential zoning district boundary.

5. **Outdoor Vehicle Display.** Outdoor vehicle display shall occur only on paved areas of the site, and the displayed vehicles shall not occupy or obstruct required parking spaces.
A. **Limited Use Standards.**

1. **Home-Based Occupation.** The use may also operate as a Home Based Business, subject to the standards in Section 2.325. Home Based Business.

2. **Hours of Operation near Residential.** The use, when abutting a residential use or residential zoning district boundary, shall not receive clients, customers, or other visitors beyond the owner and employees between the hours of 10:00 PM and 8:00 AM.

3. **Scale of Use.** The floor area of the use shall not exceed 2,500 square feet.

4. **Occupancy in UN District.** The use shall not accommodate more than five clients and not more than two non-resident employees on the premises at any one time.

**SEC. 2.356 RECREATION, INDOOR** (ORD. 18-037)

A. **Limited Use Standards.**

1. **Hours of Operation near Residential.** The use, if within 200 feet of the property line of a residential use, a mixed-use development that includes residential use, or a residential zoning district boundary, measured as a radius from property lines of the limited use, shall not operate between the hours of 12:00 AM and 8:00 AM.

2. **Screening.** When the site is located adjacent to a residential use or zoning district boundary, visual screening shall be provided along all common side and rear property lines. The screening shall consist of a landscaping strip at least 4 feet in width that provides a year-round visual barrier, and positioned directly adjacent to the adjoining property. A solid masonry or concrete wall or a wood fence having a minimum height of five feet shall be installed immediately behind the landscaping strip.

3. **No Nuisance Created.** The use shall not create or cause any perceptible noise, odor, smoke, electrical interference, or vibrations that constitute a public or private nuisance to neighboring properties.

**SEC. 2.357 RECREATION, OUTDOOR** (ORD. 18-037)

A. **Limited Use Standards.**

1. **Use Limitations.** Outdoor shooting ranges for firearms shall not be permitted. Drive-in theaters, golf driving ranges, and go cart tracks shall not be permitted in the CB and UN districts.

2. **Hours of Operation near Residential Use.** The use, if within 200 feet of the property line of a residential use or a mixed-use development that includes residential, measured as a radius from property lines of the limited use, shall not operate between the hours of 10:00 PM and 6:00 AM.

3. **Noise Limitation.** All on-site activities and events shall comply with the City’s noise regulations. Additionally, any outdoor speakers shall be oriented toward the interior of the site and away from property lines.

**SEC. 2.358 RECYCLING CENTER**

A. **Limited Use Standards.**

1. **Use Limitation.** The use shall involve only sorting and temporary storage of the collected materials prior to transport off site and not any on-site processing.
**Child Care Facility, Day Care (Commercial)** means a child-care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week.

**Child Care Facility, Day Care (Residential)** means a facility licensed or certified by the Texas Department of Family and Protective Services that operates for all of the 24-hour day.

**Cleaning/Laundry Pick-Up Station** means an establishment providing laundering, dry cleaning and/or custom cleaning of garments and other household materials (e.g., curtains, bedspreads) but only for customer drop-off and pick-up of items as the cleaning services are performed off premises.

**Cleaning/Laundry-Mat Facility** means an establishment providing laundering, dry cleaning and/or custom cleaning of garments and other household materials (e.g., curtains, bedspreads) where the cleaning services are performed on premises, with a pick-up station component for customer drop-off and pick-up of items. Cleaning/Laundry-Mat Facility also means an establishment where facilities are available for customers to complete their own laundering with limited assistance. Also commonly known as a Laundromat or Washateria. In some cases the cleaners and laundry-mat activity may be combined.

**Clinic/Medical Lab /Medical Office** means office space used by health care professionals for the examination and/or treatment of patients on an outpatient basis, with no overnight stays by patients. A medical office may include a medical lab and/or clinic which is a facility offering diagnostic or pathological testing and analysis of blood, blood fluids, pathological specimens, DNA sampling and analysis, and any other diagnostic test generally recognized in the healthcare industry. The term includes immediate care facilities, where urgent care treatment is the dominant form of care provided at the facility, but does not include a hospital or state-designated trauma center.

**College / University / Vo-Tech** means a community college, college, university, vocational / technical school, trade school, language school, business school, training center, beauty school, culinary school and comparable advanced or continuing education facilities. The term does not include music schools, fitness centers, sports instruction, swimming instruction or martial arts instruction.

**Commercial Amusement, Indoor** means uses that provide commercial amusement indoors (except adult uses), including, but not limited to:

1. Bowling alleys and pool rooms;
2. Indoor skating rinks (ice or roller);
3. Indoor velodromes;
4. Internet cafes;
5. Local area network computer gaming centers;
6. Movie theaters and live performance theaters;
7. Museums and aquariums; and
8. Shooting ranges (indoor), which means a building open to the general public wherein the shooting of firearms is allowed for the practice of marksmanship; and

The phrase does not include indoor shooting ranges that are maintained or operated by a police department or United States military branch and that are not available to the general public. The phrase also does not include a casino, casino hotel, event wagering establishment or similar use.
**Commercial Amusement, Outdoor** means uses that provide commercial amusement outdoors (except adult uses), including, but not limited to:

1. Amphitheaters or other outdoor concert facilities;
2. Amusement parks or theme parks;
3. Batting cages;
4. Bungee jumping;
5. Drive-in theaters;
6. Fairgrounds or exhibition area;
7. Go cart track;
8. Golf driving ranges;
9. Miniature golf establishments;
10. Para sailing;  
11. Shooting ranges (outdoor), which means the use of land for archery; and/or the discharging of firearms for the purposes of target practice, skeet and trap shooting, and mock war games; and
12. Water slides.

**Commercial Lodging** means a place that offers overnight accommodations for short-term rental, including hotels and motels. The phrase also includes hotels that offer convention facilities or meeting rooms. This use does not include the short term rental of residential dwelling units.

**Commercial Stable** means the stabling, training and feeding of horses, or the provision of riding facilities for the use of anyone other than the resident of the property. Equestrian trails that are constructed as part of the common open space of a subdivision and intended for the exclusive use of residents of the subdivision are not commercial stables.

**Commercial Warehousing and Logistics** means indoor warehousing, distribution or logistics facilities; retail distribution centers; order fulfillment centers; and moving and storage services (including full-service moving and storage and indoor storage of shipping containers). The term does not include “self storage”; “wholesale”; or warehousing and distribution that are accessory to a light industrial or heavy industrial facility, nor parcel service drop-off locations that are not accessory to a parcel service processing facility.

**Community Garden** means a private or public area of land that is used for the noncommercial cultivation of fruits, herbs, flowers, vegetables or ornamental plants by more than one person or family.

**Condominium** means three or more dwelling units in a multiunit building, that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

**Correctional or Rehabilitation Facility** means a probation or parole office or a residential facility that:

1. Is operated by an agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency of the State or a political subdivision of the State; and
2. Houses persons convicted of misdemeanors or felonies or children found to have engaged in delinquent conduct, regardless of whether the persons are housed in the residential facility:
   a. While serving a sentence of confinement following conviction of an offense;
   b. As a condition of probation, parole or mandatory supervision; or
**Gun Shop** means any premise or portion thereof used principally for the sale of firearms, ammunition and/or ammunition components, or hunting-related shooting equipment. The term does not include a department or specialty sales area that occupies less than half the floor area of a sporting goods or general merchandise store.

**Heavy Industry** means:

1. Primary processing or manufacturing or repair operations not specifically defined elsewhere in this Section, which involve:
   a. An outside storage area that is larger than the area of the first floor of buildings on the same lot;
   b. A material risk of environmental contamination, explosion or fire;
   c. Perceptible ground vibration;
   d. Excessive noise or dust;
   e. Emission of objectionable odors;
   f. More than 12 trips by semi-trailer trucks per day; or
2. Processing of minerals (except precious and semi-precious stone cutting for jewelry or precision instruments such as lasers or watches), ores or fossil fuels; or
3. Industries that are required to undergo New Source Review under the Federal Clean Air Act, or are subject to construction or operation permits pursuant to the Texas Clean Air Act (Tex. Health and Safety Code Ch. 3842) or Title V of the Federal Clean Air Act.
4. For illustrative purposes, heavy industrial uses include, but are not limited to:
   a. Coal cleaning plants with thermal dryers; coke oven batteries; carbon black plants (furnace process); petroleum refineries; petroleum storage and transfer units (except retail gasoline stations); and bulk fuel dealers;
   b. Facilities used in the primary or secondary production of metals (e.g., primary zinc, copper or lead smelters; primary aluminum ore reduction plants; iron and steel mills; sintering plants; secondary metal production plants; and blacksmith shops);
   c. Portland cement plants;
   d. Sawmills and pulp mills;
   e. Incinerators with the capacity to charge more than 250 tons of refuse per day;
   f. Lime plants; phosphate rock processing plants; sulfur recovery plants; and hydrofluoric, sulfuric or nitric acid plants;
   g. Fossil fuel combustion (boilers or electricity generation) totaling more than 250 million BTUs per hour of heat input;
   h. Fabrication of building materials such as countertops, drywall and cut stone;
   i. Fabrication of vehicles, manufacturing equipment, durable goods or prefabricated homes or home components;
   j. Auto or marine body, paint or upholstery shops;
   k. Drycleaner processing plants that use PERC (the chemical solvent Perchloroethylene, an alternate name for Tetrachloroethylene, that is also commonly referred to as “dry-cleaning fluid”) or comparable petrochemical solvents;
   l. Meat or seafood processing plants;
   m. Manufacture of glass products (e.g., window panes, bottles and jars), except hand-blown products;
   n. Manufacture of plastic products (except assembly of parts that are manufactured elsewhere);
   o. Plasma arc welding, cutting, gouging, surfacing or spraying; gas welding (but not brazing); arc welding with equipment that is rated at more than 200 amps; TIG
**Shooting Range** means a facility open to the general public wherein the discharging of firearms is allowed for the practice of skill in shooting, target practice, and/or skeet and trap shooting. The term does not include shooting ranges that are maintained or operated by a police department or United States military branch and that are not available to the general public.

**Short Term Rentals** means the use of a residential dwelling unit or accessory building on a temporary or transient basis. A short term rental shall include a residential dwelling unit or accessory building used as a short term vacation rental, for any period less than 30 consecutive days.

**Single-Family Detached** means dwelling units that are:

1. Located in an individual building that is constructed on:
   a. An individual lot; or
2. Separated from other dwelling units by outside walls; and
3. Designed for use by a single housekeeping unit.

**Small Scale Food And Beverage Production** means an enterprise that conducts the production of prepared food and/or beverages for local or regional wholesale distribution. Such uses include, but are not limited to, wholesale bakeries, commercial kitchens, and specialty food and/or beverage processing or packaging shops, but excludes meat or seafood processing plants.

**Stealth Technology** means a system, components, and materials used in the construction of Wireless Telecommunication Facilities which minimize adverse aesthetic and visual impacts to surrounding properties. This includes, but is not limited to, artificial tree, clock tower, bell steeple, light pole, and similar alternative-design mounting structures that camouflage or conceals the presence of communications antennas, monopoles, towers, and other facilities.

**Subordinate** means a use or structure that is less significant than the principal use or structure on the same lot, including but not limited to, floor area, building height, the economic importance of the use, the number of customers/visitors, and which serves a principal building or use.

**Substance Abuse Facility** means a facility that provides 24-hour residential care or less than 24-hour day care for individuals rehabilitating from drug or alcohol abuse or addiction. The term does not include a “correctional or rehabilitation facility” or halfway houses for prison parolees or juveniles.

**Towing Service** means a tract of land devoted on a continuing basis to the temporary storing of motor vehicles which have been impounded upon the authority of a law enforcement officer, or motor vehicles which have been removed from private property at the request of the owner or other person in charge of such private property. A towing service facility may provide automobile service as an accessory use.

**Townhouse** means a single-family dwelling unit constructed in a group of three or more attached units on its own lot in which each unit extends from the foundation to roof with open space on at least two sides.

**Traditional Neighborhood Development ("TND")** means a predominately residential neighborhood that consists of a variety of residential lot sizes and more than one type of housing, along with neighborhood supportive nonresidential development, designed so that internal streets tend to give equal or greater emphasis to pedestrian circulation compared to motorized vehicles.

**Vehicle Wash** means any area or business using self-service, in-bay automatic, or conveyor equipment for cleaning and washing motor vehicles, whether as a part of another business operation (e.g., as an accessory use to light automobile service/fueling station or vehicle sales,