

## ARTICLE VII. - CONSTRUCTION AND OTHER ACTIVITIES ON GULF FRONT BEACHES AND DUNES

## Sec. 7-121. - Definitions.

For the purposes of this article, the following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

- (a) *Construction control line* or *CCL* means between the straight line segments formed by connecting plane coordinates (X = 1865129.97822 feet; Y = 83376.86242 feet) otherwise known as monument ADEM B 19 to (X = 1874944.3364 feet; Y = 84333.7475 feet) otherwise known as monument GS-1 to (X = 1877413.2794 feet; Y = 84725.6701 feet) otherwise known as monument GS-2 to (X = 1878198.9455 feet; Y = 84861.6391 feet) otherwise known as monument GS-3 to (X = 1878689.8784 feet; Y = 84958.7743 feet) otherwise known as monument GS-4 to (X = 1879962.6489 feet; Y = 85157.3364 feet) otherwise known as monument GS-5 to (X = 18883097.1139 feet; Y = 85838.7517 feet) otherwise known as monument GS-6 to (X = 1885410.1907 feet; Y = 86341.6598 feet) otherwise known as monument GS-7 to (X = 1887350.0210 feet; Y = 86681.3575 feet) otherwise known as monument GS-8 to (X = 1889303.8015 feet; Y = 87023.5011 feet) otherwise known as monument GS-9 to (X = 1891063.9592 feet; Y = 87398.5069 feet) otherwise known as monument GS-10 to (X = 1892350.9960 feet; Y = 87574.8090 feet) otherwise known as monument GS-11 to (X = 1894432.3520 feet; Y = 87863.6736 feet) otherwise known as monument GS-12 to (X = 1896515.1468 feet; Y = 88152.5970 feet) otherwise known as monument GS-13 to (X = 1896815.6398 feet; Y = 88168.9013 feet) otherwise known as monument GS-14 to (X = 1900062.6008 feet; Y = 8858.9627 feet) otherwise known as monument GS-15 to (X = 1900062.7308 feet; Y = 88553.6130 feet) otherwise known as monument GS-16 (X = 1902673.6989 feet; Y = 88891.7226 feet) otherwise known as monument GS-17 (X = 1904021.7705 feet; Y = 89114.3675 feet) otherwise known as monument GS-18 to (X = 1905005.6395 feet; Y = 89295.1185 feet) otherwise known as monument GS-19 to (X = 1905818.8787 feet; Y = 89464.8840 feet) otherwise known as GS-20 to (X = 1906587.0801 feet; Y = 89671.5091 feet) otherwise known as monument GS-21 to (X = 1907261.0074 feet; Y = 89795.7454 feet) otherwise known as monument GS-22 to (X = 1908044.3756 feet; Y = 89959.6804 feet) otherwise known as monument GS-23 to (X = 1909552.8366 feet; Y = 90224.5962 feet) otherwise known as monument GS-24 to (X = 1910543.0187 feet; Y = 90368.0135 feet) otherwise known as monument GS-25 to (X = 1912112.0365 feet; Y = 90569.4627 feet) otherwise known as monument GS-26 to (X = 1912748.2105 feet; Y = 90599.8985 feet) otherwise known as monument GS-27 to (X = 1913255.6252 feet; Y = 90686.7018 feet) otherwise known as monument GS-28 to (X = 1913563.2720 feet; Y = 90714.4626 feet) otherwise known as monument GS-29 to (X = 1915387.80303 feet; Y = 90735.77117 feet) otherwise known as monument ADEM B 20 to (X = 1915397.18585 feet; Y = 90802.39860 feet) otherwise known as monument ADEM B 22. To the extent, if any, the corporate limits or police jurisdiction of the city now or hereafter include Gulf beachfront property not intersected by the above-described straight line segments, the "Construction control line" or "CCL" shall be the construction control line specified by the Alabama Department of Environmental Management for such additional Gulf beachfront property under ADEM Administrative Code R. 335-8-1-.02 as in effect from time to time; in Baldwin County (the Fort Morgan Peninsula) the straight line segments formed by connecting plane coordinates (x = 339,869.380 feet; y = 82,413.826 feet) in the vicinity of monument BC-0 to (x = 343,833.777 feet; y = 82,946.329 feet) in the vicinity of monument BC-1 to (x = 344,439.935 feet; y = 83,027.749 feet) in the vicinity of monument BC-2 to (x = 345,229.900 feet; y = 83,267.806 feet) in the vicinity of monument BC-3 to (x = 346,070.573 feet; y = 83,318.732 feet) in the vicinity of monument BC-4 to (x = 347,947.400 feet; y = 83,542.163 feet) in the vicinity of monument BC-5 to (x = 353,678.481 feet; y = 84,097.590 feet) in the vicinity of monument BC-6 to (x = 358,262.949 feet; y = 84,424.908 feet) in the vicinity of monument BC-7 to (x = 361,952.301 feet; y = 84,532.314 feet) in the vicinity of monument BC-7A to (x = 367,652.468 feet; y = 84,352.329 feet) in the vicinity of monument BC-8 to (x = 370,294.079 feet; y = 84,232.401 feet) in the vicinity of monument BC-9 to (x = 370,337.309 feet; y = 84,095.345 feet) in the vicinity of monument BC-10 to (x = 372,723.136 feet; y = 84,013.940 feet) in the vicinity of monument BC-11 to (x = 374,515.213 feet; y = 84,209.778 feet) in the vicinity of monument BC-12 to (x =

381,454.710 feet; y = 83,545.945 feet) in the vicinity of monument BC-13 to (x = 382,099.449 feet; y = 83,460.299 feet) in the vicinity of monument BC-14 to (x = 384,804.496 feet; y = 83,494.181 feet) in the vicinity of monument BC-15 to (x = 388,949.030 feet; y = 83,361.769 feet) in the vicinity of monument BC-16 to (x = 394,023.606 feet; y = 83,282.288 feet) in the vicinity of monument BC-17 to (x = 394,115.430 feet; y = 83,209.569 feet) in the vicinity of monument BC-18 to (x = 396,624.613 feet; y = 83,299.904 feet) in the vicinity of monument BC-19.

- (b) *Dune walkover* means a raised walkway constructed for the purpose of protecting the beach and dune system between mean high tide and the construction control line from damage that may result from anticipated pedestrian traffic to the beach and which is no more than six (6) feet in width, constructed without roof or walls, elevated at least one (1) foot above the dune, and extends seaward of the seaward vegetation line.
- (c) *Footprint* means the ground area covered by a structure when viewed from the top or plan view.
- (d) *New structure* means any structure which is not an existing structure.
- (e) *Primary dune system* means a ridge or series of ridges of unconsolidated and usually mobile sands lying landward of the upper limit of Gulf beaches which serves as the principal defense against storm wave attack. Vegetatively, this primary protective dune can be characterized by *Agnelli paniculata* (sea oats), *Spartina patens* (saltmeadow cordgrass), *Panicum amarulum* (dune panicgrass), *Distichlis spicata* (saltgrass), *Solidago pauciflosculosa*, (seaside goldenrod), *Hydrocotyle bonariensis* (pennywort), and *Ipomoea stolonifera* (seaside morning glory).
- (f) *Structure* includes, but is not limited to, a hotel, condominium, house, building, bulkhead, deck, pool, parking lot, gazebo or other object the whole or parts of which are arranged by human action including any substantial improvement to an existing structure. This does not include water, oil, gas, electricity or sewage pipelines or conduits located beneath the surface of lands.
- (g) *Substantial improvement means:*
  - (1) Any extension, enlargement, addition or expansion of any structure which increases the height or footprint of the structure and is subject to chapter 7, article I, of this Code.
  - (2) Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the fair market value of the structure, either:
    - a. Before the repair, reconstruction or improvement is started; or
    - b. If the structure has been damaged and is being restored, before the damage occurred.

For purposes of this article, fair market value shall be determined by the building official or his agent by reference to the most current ICC Building Valuation Data Table (the "Data Table"), giving due consideration to any and all relevant documentation provided by the applicant that supports an upward adjustment of the value otherwise indicated by reference to the data table. The square foot area and type of construction of the affected structure utilized in the determination shall be established by the building official or his agent by reference to the data table. The square foot area and type of construction of the affected structure utilized in the determination shall be established by the building official or his agent by reference to the original building permit issued for the structure, if available; by reference to the building description contained in any casualty insurance policy covering the structure in effect at the time of any damage; or by such other method or combination of methods deemed appropriate in the good faith discretion of the director of community development or his agent.

The cost of repair, reconstruction, or improvement shall be determined as follows:

At the time application for a building permit referable to the work is made, the applicant shall submit, in addition to the documentation otherwise required for the issuance of a building permit, the following documentation:

- (1) A certification by the licensed contractor or contractors who will be performing the work, or if there is no contractor on the project, by the permit applicant, that the cost of the work described in the permit application will not exceed the cost declared in the permit application;
- (2) A copy of all documentation relating to pending or final claim settlement payments by insurers referable to any

damage incurred by the structure.

The certified cost declaration contained in the permit application will be accepted as the cost of the work unless the building official or his agent determines that such declaration is materially inconsistent with the data table, damage claim settlement payments, or both. In such event the director of community development shall prepare a written determination of the cost of work for purposes of this article specifying the basis on which such cost of work has been determined.

In the event changes in the scope of the work necessitated by the discovery of unanticipated damage elements or expense results in an increase in the cost of the work after the submission of a certified cost declaration, a revised certified cost declaration must be filed with the director of community development. If the building official or his agent determines on the basis of the revised certified cost declaration or on the basis of other information coming to his attention deemed reliable that the cost of the work exceeds fifty (50) percent of fair market value, the building official or his agent shall order the suspension of any building or other permits issued for the work, and the applicant may pursue an appeal or request for variance, as appropriate, as provided in subsection 7-123(b) and section 7-125.

Any terms utilized in this article not specifically defined above and otherwise defined in R.335-8-1-.02 of the ADEM Administrative Code shall have the meanings set out in such section.

(Ord. No. 761, § 1, 9-30-98; Ord. No. 1379, § 1, 9-26-05; Ord. No. 1601, § 1, 4-12-10)

Sec. 7-122. - Construction and other activities on Gulf front beaches and dunes.

- (a) No person shall remove primary or secondary dune or beach sands, including such sands that have been relocated by the action of wind or water, from any areas of the city or its police jurisdiction south of State Highway 182, Little Lagoon, Lake Shelby, or Lake Shelby Creek without a permit from the city. If a permit is issued for removal of such sand, the removed sand shall be deposited back into the Gulf front beach and dune system as required by the city. No sands shall be removed from the system unless classified as contaminated by the Alabama Department of Environmental Management.
- (b) No person shall remove primary dune or beach sands and/or vegetation or otherwise alter the primary dune system, construct any new structure, or make any substantial improvement to any existing structure, on, beneath or above the surface of any land located between mean high tide and the construction control line.
  - (c) (1) No person shall construct any new structure or make any substantial improvement to an existing structure, on, beneath or above the surface of any parcel of land owned by a person if any portion of such parcel is intersected by the construction control line without first having obtained a permit from the city under this article.
  - (2) A permit for construction of a new structure may be issued if the city is satisfied that the proposed structure is not on, beneath or above the surface of any lands located between mean high tide and the construction control line.
  - (3) An application for a permit to construct a single-family dwelling or duplex pursuant to this rule shall contain:
    - a. A legal description of the property on which the structure is proposed, as well as the street address;
    - b. An area map showing the location of the property and proposed structure in relation to roads and other recognized landmarks;
    - c. A survey of the property and site plan prepared by a duly licensed land surveyor of the State of Alabama showing the location of the construction control line, as determined from the state plane coordinates, the distance from the nearest construction control line monument to the lot, and the location and dimensions of all proposed structures;
    - d. A certified copy of the deed, lease or other instrument under which the applicant claims title, possession or permission from the owner of the property to carry out the project;
    - e. An identification of the water supply source and wastewater disposal system;
    - f. Such other information as the city may reasonably require to assure compliance with this article.

- (4) An application for a permit to construct a motel, hotel, condominium, planned multi-unit development, or any other development shall contain:
- a. All information required by subsection (c)(3) above;
  - b. An "Environmental Impact and Natural Hazards Study" which will include, at a minimum, the following:
    - i. Wave height study addressing the flood hazard and erosion potential at the project site using eroded beach profiles for pre and post-developed conditions;
    - ii. Location and delineation of velocity zone; and
    - iii. Analysis of the project's potential to significantly increase the likelihood that damage will occur from floods, hurricanes, or storm.
  - c. A "Beach and Dune Enhancement Plan" which includes, at a minimum, the following:
    - i. Fence placed along the construction control line prior to and during construction activities to prevent material and equipment seaward of the line;
    - ii. Dune walkovers designed to accommodate the anticipated pedestrian traffic from the completed project;
    - iii. The placement of sand fences;
    - iv. Planting of suitable natural vegetation in areas devoid of vegetation; and
    - v. A maintenance program for the sand fences and plantings.
- (d) Bulkheads, retaining walls, or similar structures shall not be permissible on Gulf beaches or primary dunes unless it can be demonstrated that:
- (1) The bulkhead or retaining wall is landward of the construction control line and is necessary to protect and insure the structural integrity of an existing or previously permitted structure; and
  - (2) There are no other feasible nonstructural alternatives, including retreat.
- (e) No person shall operate a motorized vehicle on the beach or primary dune system, except as may be provided by the provisions of this article or applicable state law. Beach cleaning equipment and safety and law enforcement vehicles operating on flat beach sand may be permissible, provided it is demonstrated to the satisfaction of the city that:
- (1) The equipment will not be operated within the primary dune system;
  - (2) A route of ingress and egress has been designated and approved by the city;
  - (3) Beach and dune vegetation will not be impacted or destroyed; and
  - (4) The equipment will be operated only in areas specified by the city.
- (f) Septic tanks and other on-site sewage disposal systems shall not be permitted on a lot intersected by the construction control line, unless no public sanitary sewer system as defined in chapter 17, article II of this Code is available to the site and the on-site system has been approved by the Baldwin County Department of Public Health.
- (g) The following activities conducted seaward of the construction control line are not subject to this article: The placement of items associated with daily recreational use that are of a temporary and removable nature, including, but not limited to, chairs, umbrellas, volleyball and similar equipment, provided the posts are not permanently installed in the ground, and provided these items are removed from the beach prior to the major storm events.

(Ord. No. 761, § 1, 9-30-98)

Sec. 7-123. - Required documentation of ADEM approval; applications for variance.

- (a) Prior to the issuance by the city of any building permit, land-disturbing activity permit, zoning approval, or any other city permit or approval, the applicant for such permit or approval must document to the satisfaction of the city that all applicable rules and regulations of the Alabama Department of Environmental Management have been satisfied and all necessary approvals of the Alabama Department of Environmental Management have been obtained for any proposed project involving construction or activities in any of the following categories:

- (1) Any new commercial and residential developments located wholly or partially within the coastal area which are or more than five (5) acres in size and have areas which are or could be delineated as wetlands, which are adjacent to coastal areas intersected by the construction control line;
  - (2) Any project involving the construction of a new water well or the significant alteration of an existing water well in order to pump more than fifty (50) gallons of water per minute.
  - (3) Any project involving the placement of rip-rap or other structural shoreline armament along gulf beaches.
- (b) The members and supernumerary members of the board of zoning adjustment of the City of Gulf Shores serving from time to time pursuant to appointment under Ala. Code § 11-52-80 shall serve and are hereby appointed ex officio as members and supernumerary members, respectively, of the CCL Board of Adjustment of the City of Gulf Shores for terms coextensive with the terms of their appointment to the board of zoning adjustment.

Any applicant for a permit for construction or other activities on gulf front beaches that are determined by the city to be prohibited under the requirements of the Alabama Coastal Area Management Program as implemented by delegation in this article VII may apply to the CCL Board of Adjustment of the City of Gulf Shores for a variance from any of the requirements of this article. The procedure for such application and the standards for consideration of such application shall be as provided in ADEM Reg. 335-8-1-.13 as in effect from time to time. References in such regulation to the "department" shall be read as references to the CCL Board of Adjustment of the City of Gulf Shores and references to "this Administrative Code" in such Regulation shall be read as references to this article VII.

(Ord. No. 761, § 1, 9-30-98; Ord. No. 1379, § 2, 9-26-05)

#### Sec. 7-124. - Public notice and hearing.

- (a) Prior to a decision on the issuance, modification or denial of any permit under this article, the city shall publish a public notice of the proposed activity for the purpose of soliciting public comment thereon or shall require the applicant for the city permit to provide such notice in a manner prescribed by the city. Said notice shall be published at least fifteen (15) days prior to issuance of the city's decision.
- (b) The city may provide an opportunity for a public hearing on the proposed activity if any person has satisfactorily demonstrated that a relevant and significant issue cannot be effectively or fully communicated to the city in writing of a significant public interest would be served thereby. Any public hearing provided shall be announced at least thirty (30) days prior to the hearing date.
- (c) Public notice shall not be required for modifications, and permit extensions or renewals in which the impact is expected to be equal to or less than originally permitted. Editorial changes and permit name changes shall not be subject to the public notice requirements of this article.

(Ord. No. 761, § 1, 9-30-98)

#### Sec. 7-125. - Appeals.

Any person aggrieved by the city's decision to issue, modify or deny any permits under this article may appeal such decision to the CCL board of adjustment as outlined in subsection 7-123(b) above. Unless stayed by order of the Board, any permit issued by the city shall remain in full force and effect pending any such appeal.

(Ord. No. 761, § 1, 9-30-98; Ord. No. 1379, § 3, 9-26-05)

#### Sec. 7-126. - Addressing/signage standards for beach fronting properties with dune walkovers.

- (a) For all locations other than multi-family developments, street address (911) numbers shall be provided on the seaward side of structures. The numbers shall be of contrasting color and be a minimum of four (4) inches in height.
- (b) For all multi-family developments, an eighteen-inch by twenty-eight-inch sign shall be provided. The sign shall have four (4) lines with the name of the development occupying the top two (2) lines, the address numbers occupying the

third line and the street name occupying the fourth line of the sign with a minimum of three-inch letters and numbers. The sign shall have a green background with white letters. The sign shall be a freestanding sign supported by a minimum of one (1), four-inch by four-inch ten-foot post located on the seaward side of the dunes, but not south of the established Mean High Tide Line, with the sign facing south. The height of the sign shall be a minimum of four (4) feet to the bottom of the sign from grade and a maximum of five (5) feet to the bottom of the sign from grade at time of construction.

- (c) For all multi-family developments, the International Flag System (Beach Warning Sign) shall be posted on the site nearest the point of ingress/egress to the beach.
- (d) It shall be the responsibility of the property owner/homeowner's association to maintain the required signage at the required locations. The City of Gulf Shores Building Department and Fire Department will make routine inspections to verify the signs are in compliance with this section. Anyone found not in compliance with this section will be subject to penalties and fines as allowed within the City of Gulf Shores' Code of Ordinances.
- (e) The requirements of this section shall not exempt any requirements as established in other ordinances adopted by the City of Gulf Shores regarding signage.

(Ord. No. 1552, § 1, 7-13-09)

Secs. 7-127—7-149. - Reserved.