

DIVISION 15. ENVIRONMENTAL STANDARDS FOR BEACH AND DUNE PROTECTION*

***Editor's note:** Section I of Ord. No. 92-18, adopted June 18, 1992, added art. XV, §§ 1500--1510. Section III renumbered former art. XV as art. XX, §§ 2001--2008, which was further renamed div. 15, by Ord. No. 2008-25, § III, adopted Dec. 4, 2008. Code references--Beaches, ch. 20; environmental protection standards relating to beaches and dunes, § 50-341 et seq.; waterways, ch. 126. Special acts reference--Waterways, ch. 238.

Sec. 72-1051. Purpose and intent.

It is the purpose of this regulation to provide certain standards that promote restoration and preservation of the vital beach and dune system along the Atlantic coast of Volusia County, Florida. The intent is to regulate coastal construction structures and activities that affect the beach and dune system and that may degrade its natural processes and functions. All such standards shall meet or be more restrictive than the state department of environmental protection standards.

(Ord. No. 92-18, § I, 6-18-92; Ord. No. 01-34, § 1, 12-13-01; Ord. No. 2004-18, § 1, 10-21-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1052. Access standards.

Beach and dune walkovers may be constructed for the purpose of maintaining or enhancing pedestrian access to the beach and to minimize habitat impact where there is currently no walkover. A valid permit is required from the appropriate state and local agencies prior to the start of construction of beach and dune walkovers.

- (1) Walkovers are required at all new public access points and adjacent to all new multifamily dwelling structures, hotel/motel complexes and other commercial establishments which allow ingress and egress to the beach and lack access to existing walkover structures or ramps.
- (2) All applicable permits from state regulatory agencies, such as the department of environmental protection, shall be received before issuance of a county building permit for the walkover.
- (3) Walkovers shall be constructed in a manner that minimizes short-term disturbances to the dune system and existing vegetation. The walkover shall be posted by the owner with signs containing information including the laws concerning prohibition of disturbing sea turtle nests, and prohibitions against disturbing state protected vegetation and dunes, the dates of the sea turtle nesting season (May 1--October 31), the effective dates of applicable lighting restrictions, and referencing the sea turtle ordinance [division 12 of this article]. Signs shall be aesthetically pleasing and no larger than 2.25 square feet.
- (4) Replacement of any vegetation destroyed during construction of the walkover with similar plants suitable for beach/dune stabilization is required. Replanting must be accomplished with native coastal vegetation suitable for beach and dune stabilization.

(5) Walkovers constructed over vegetated dunes or over vegetated beach berms shall be elevated above the vegetation and dune system and shall be retrofitted as necessary to be elevated above any growing dune system within the conservation zone.

(6) All walkovers shall be designed to protect the conservation zone, natural areas, and beach habitat from construction impacts and long-term pedestrian impacts.

(7) All new or replaced walkovers shall be constructed in accordance with DEP regulations, which mandates the preservation and restoration of the associated dune system.

(Ord. No. 92-18, § I, 6-18-92; Ord. No. 01-08, § 1, 4-19-01; Ord. No. 2004-18, § 1, 10-21-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1053. Regulations for armoring.

(a) Coastal armoring shall conform to DEP's coastal armoring policy in addition to the following criteria:

(1) All coastal armoring permits will be reviewed by Volusia County Environmental Management for consistency with the Volusia County Sea Turtle HCP/ITP and this article.

(2) All new and reconstruction of armoring projects must be buried with an artificial dune, at least four feet above the existing grade, at a slope no greater than three to one, and planted with the appropriate native coastal vegetation.

(3) All new and reconstructed dune systems shall be maintained forever in perpetuity by the property owner. Additional permits from DEP may be required.

(b) Seawall construction in the county shall be consistent with DEP's rules and regulations and shall be of a low-profile design. In addition, all new seawalls shall be designed and constructed to minimize adverse impacts to adjacent properties.

(c) Each soft armoring project shall be constructed with habitat compatible materials, as determined by DEP, and will be required in conjunction with the reconstruction or replacement of any seawalls within the county.

(d) Dune reconstruction projects that include burying seawalls shall be maintained by the property owner to emulate natural dune systems and to prevent seawalls from being exposed.

(Ord. No. 92-18, § I, 6-18-92; Ord. No. 01-34, § 2, 12-13-01; Ord. No. 2004-18, § 1, 10-21-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1054. Applications for armoring permits.

(a) [*Required permits.*] All new and reconstructed armoring projects and emergency repairs must be permitted through the appropriate state and local agencies. A building permit for reconstruction will be necessary when the armoring structure is damaged in excess of 75 percent of its current replacement value; any reconstruction shall comply with this division. Coastal armoring may also be authorized in an emergency situation based upon a determination made by DEP when the project complies with the provisions of F.S. ch. 161, and Rule 62B-33, Florida Administrative Code.

(b) *Issuance of permits--Conditions.* If the application meets the requirements of this article, the LDM shall issue the permit based upon approval by the EMD, as provided in this division, and may attach such appropriate conditions to the said permit in order to

comply with the standards of section 72-1057 of this article. The EMD may deny the permit if it does not meet such standards, stating the reasons therefor. (Ord. No. 92-18, § I, 6-18-92; Ord. No. 2004-18, § 1, 10-21-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1055. Concurrent application for development order review.

If the application is to be filed concurrently with a development order review under this division, and it shall be filed as part of the development order review, shall include in addition to the requirements of development order application the following information:

(1) A completed copy of the Florida DEP "Application for a Permit for Construction or Activities Seaward of the Coastal Construction Control Line or Fifty Foot Setback" in effect, with supporting documents.

(2) The environmental management department (EMD) will waive any of the requirements of the application if, in the opinion of the EMD, such information is found to be unnecessary for a proper evaluation of the proposed work.

(Ord. No. 92-18, § I, 6-18-92; Ord. No. 01-34, § 3, 12-13-01; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1056. Application without development order review.

Except as provided in section 72-1009, an application for an armoring project shall be filed, processed and approved as follows:

(1) A completed copy of the Florida DEP "Application for a Permit for Construction or Activities Seaward of the Coastal Construction Control Line or Fifty Foot Setback" in effect, with supporting documents, shall be filed with the land development manager (LDM) and the proper fee paid.

(2) The EMD will waive any of the requirements of the application if, in the opinion of the EMD, such information is found to be unnecessary for a proper evaluation of the proposed work.

(3) The LDM shall, within three working days from the filing, determine if the application is complete. If it is determined that the application is incomplete, it shall be returned to the applicant. If the application is determined to be complete, the LDM shall transit the application and plans to the EMD. [The] EMD shall have 15 working days from the date of receipt from the LDM of a complete application to approve or deny the permit.

(Ord. No. 92-18, § I, 6-18-92; Ord. No. 01-34, § 4, 12-13-01; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1057. Standard for review.

Review criteria. In determining whether the development is permissible under the provisions of this article, the EMD shall consider, but not be limited to the following criteria:

(1) This distance (linear feet) of the development from existing adjacent structurally sound seawall, bulkhead or revetment existing on the effective date of this article to determine if it is located in a predominately natural coastline (PNC) area or a predominately armored (non-PNC) area.

- (2) The ability of armoring to achieve the purpose of stabilizing the upland dune system, thus protecting the upland structure from coastal erosion.
 - (3) The necessity to conduct such coastal construction for potential benefits versus adverse impacts to the coastal system.
 - (4) The ability of flexible armoring to achieve the same coastal protective objectives.
 - (5) The degree, if any, of interference or reduction of public access along the beach.
 - (6) The condition and design of armoring on either side of the proposed site.
- (Ord. No. 92-18, § I, 6-18-92; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1058. Removal of sand from the beach area.

- (a) Any beach-compatible sand either dredged from Ponce DeLeon Inlet or extracted from construction sites on the Volusia County Barrier Island shall not be removed from the barrier island. Provided appropriate locations are available, excess sand from construction sites adjacent to the beach shall be used solely for dune and beach reconstruction with a valid DEP permit.
 - (b) The Volusia County shall determine the compatibility of the sand, including the acceptable degree of debris, based on DEP standards.
 - (c) Compatible sand which is to be used for dune and beach reconstruction or renourishment may be stockpiled at the discretion and location designated by the county, and must be utilized on the beach.
- (Ord. No. 92-18, § I, 6-18-92; Ord. No. 01-34, § 5, 12-13-01; Ord. No. 2004-18, § 1, 10-21-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1059. Exemptions.

Activities that are exempted from this division include:

- (1) Dune restoration projects that include sand placement and revegetation with native coastal vegetation on property or lots abutting the Atlantic Ocean.
 - (2) Installing end returns on existing seawalls, bulkheads or revetments designed and constructed consistent with the standards contained in the most current version of the U.S. Army Corps of Engineers Coastal Engineering Manual, which depicts proper techniques for minimizing wave current edge effects.
 - (3) Dune planting, sand depositing or sand fencing, or other activities, which has been approved by DEP, that serve to promote the natural function of the beach environment.
 - (4) Mechanical beach cleaning, provided that it conforms to the standards contained in division 6 of this article, pertaining to sea turtle protection, if said activity is permitted by DEP, and does not enter the conservation zone.
 - (5) Maintenance dredging work at the Ponce DeLeon Inlet performed by the United States Corps of Engineers or its designee.
- (Ord. No. 92-18, § I, 6-18-92; Ord. No. 01-34, § 6, 12-13-01; Ord. No. 2004-18, § 1, 10-21-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1060. Appeals.

The applicant may appeal determinations of the EMD to the development review committee (DRC), in writing, within 30 days of said determination. The DRC may uphold, modify or reverse the determination of the EMD.

(Ord. No. 92-18, § I, 6-18-92; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1061. Jurisdiction.

This division shall apply to the unincorporated areas of Volusia County, Florida, and those municipalities that do not adopt a similar ordinance.

(Ord. No. 92-18, § I, 6-18-92; Ord. No. 2008-25, § III, 12-4-08)

Secs. 72-1062--72-1095. Reserved.