

**NOTICE OF SHORELINE TASK FORCE MEETING
CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE MEETING**

NOTICE IS HEREBY GIVEN THAT THE SHORELINE TASK FORCE OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, WILL HOLD A SHORELINE TASK FORCE MEETING ON:

TUESDAY, FEBRUARY 11, 2020

3:00 PM 4601 PADRE BOULEVARD SOUTH PADRE ISLAND, TX 78597

1.Call to Order

2.Pledge of Allegiance

3.Public Comments and Announcements

This is an opportunity for citizens to speak to Council relating to agenda or non-agenda items. Speakers are required to address Council at the podium and give their name before addressing their concerns. [Note: State law will not permit the City Council to discuss, debate or consider items that are not on the agenda. Citizen comments may be referred to City Staff or may be placed on the agenda of a future City Council meeting]

4.Regular Agenda

- 4.1. Approval of the minutes from January 14, 2020 regular meeting; January 20, 2020 workshop meeting; and January 28, 2020 regular meeting.
- 4.2. Discussion on selected Coastal Management Program grant application for Cycle 25- Whitecap Circle Improvement.
- 4.3. Discussion and action on Chapter 22 of the City's Code of Ordinances.
- 4.4. Update on departmental projects.
- 4.5. Discussion on working with Cameron County to potentially develop a boat ramp.

5.Adjourn

NOTE:

One or more members of the City of South Padre Island City Council may attend this meeting; if so, this statement satisfies the requirements of the OPEN MEETINGS ACT.

DATED FEBRUARY 7, 2020

Susan M. Manning, City Secretary

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THE ABOVE NOTICE OF MEETING OF THE GOVERNING BODY OF THE CITY OF SOUTH PADRE ISLAND, TEXAS IS A TRUE AND CORRECT COPY OF SAID NOTICE AND THAT I POSTED A TRUE AND CORRECT COPY OF SAID NOTICE ON THE BULLETIN BOARD AT CITY HALL/MUNICIPAL BUILDING ON **FEBRUARY 7, 2020**, AT/OR BEFORE 3:00 PM AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.

Susan M. Manning, City Secretary

THIS FACILITY IS WHEELCHAIR ACCESSIBLE, AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT BUILDING OFFICIAL, DAVID TRAVIS; ADA DESIGNATED RESPONSIBLE PARTY AT (956) 761-8103.

**CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE
AGENDA REQUEST FORM**

MEETING DATE: February 11, 2020

NAME & TITLE: Mackenzie Yoder

DEPARTMENT: Shoreline Department

ITEM

Approval of the minutes from January 14, 2020 regular meeting; January 20, 2020 workshop meeting; and January 28, 2020 regular meeting.

ITEM BACKGROUND

Approval of minutes from past meetings

BUDGET/FINANCIAL SUMMARY

n/a

COMPREHENSIVE PLAN GOAL

n/a

LEGAL REVIEW

Sent to Legal:

Approved by Legal:

RECOMMENDATIONS/COMMENTS:

**MINUTES OF REGULAR MEETING
CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE**

TUESDAY, JANUARY 14TH, 2020

I. CALL TO ORDER.

The Shoreline Task Force of the City of South Padre Island, Texas held a regular meeting on Tuesday, January 14th, at the Municipal Complex Building, 2nd Floor, 4601 Padre Boulevard, South Padre Island, Texas. Vice-Chairman Virginia Guillot called the meeting to order at 3:00 p.m. A quorum was present with: Task Force Members Virginia Guillot, Abbie Mahan, Stormy Wall, Rob Nixon, Norma Trevino, and Kyle Adams. Absent, Task Force Member Michael Sularz.

City Council member Kerry Schwartz was present. City staff present included Shoreline Director Kristina Boburka, Coastal Resource Manager Mackenzie Yoder, and Shoreline Grant and Special Projects Administrator Erika Hughston.

II. PLEDGE OF ALLEGIANCE.

Vice-Chairman Virginia Guillot led the Pledge of Allegiance.

III. DISCUSSION AND ACTION TO ELECT A CHAIRPERSON AND VICE-CHAIRPERSON.

After some discussion, Task Force Member Stormy Wall made a motion to elect Virginia Guillot as Chairman, seconded by Task Force Member Abbie Mahan. Task Force Member Norma Trevino then made a motion to elect Rob Nixon as Vice-Chairman, seconded by Task Force Member Abbie Mahan. Both motions carried unanimously.

IV. PUBLIC COMMENTS AND ANNOUNCEMENTS:

Chairman Virginia Guillot said a few words to thank former Chairman Neil Rasmussen for his service on the Shoreline Task Force. Shoreline Director Kristina Boburka welcomed new Task Force Member Kyle Adams.

V. REGULAR AGENDA

1. APPROVAL OF THE DECEMBER 10TH, 2019 REGULAR MEETING MINUTES.

Task Force Member Mahan made a motion, seconded by Task Force Member Wall to approve the regular meeting minutes as submitted. Motion carried unanimously.

2. DISCUSSION AND ACTION ON SHORELINE TASK FORCE 2020 MEETING CALENDAR.

After some discussion, the Task Force decided to cancel both meetings in March of 2020 due to Spring Break. In the event of an emergency, the Task Force moved to schedule a meeting for March 31, 2020. Shoreline Director Kristina Boburka also highlighted the resolution in place where a Task Force Member may be dismissed after 3 unexcused absences. Task Force Member Nixon made a motion to approve the meeting calendar as discussed, seconded by Chairman Guillot. Motion carried unanimously.

3. DISCUSSION AND ACTION ON A SHORELINE TASK FORCE WORKSHOP DATE.

After some discussion, Task Force Member Nixon made a motion to schedule the Workshop for January 20, 2020 at 10am, seconded by Chairman Guillot. The motion carried unanimously.

4. DISCUSSION AND ACTION ON THE BORROW BIN PILOT PROJECT.

Coastal Resource Manager Mackenzie Yoder presented a recap of discussion from December 10, 2019 regarding the pilot project as well as possible ideas and associated cost for placement and construction of toy boxes / “borrow bins.” After some discussion, Task Force Member Nixon made a motion to approve the pilot project at the five beach accesses presented, using recycled pallets to create toy boxes. Chairman Guillot seconded the motion which carried unanimously.

5. DISCUSSION AND POSSIBLE ACTION ON TEMPORARY PORTABLE RESTROOMS.

Shoreline Director Kristina Boburka reminded the Task Force of the renewed contract for the 20 portable restrooms at City beach accesses through the year 2020. She then proposed placing 6 additional portable restrooms directly on the beach for the duration of summer. Task Force Member Trevino made a motion to not place 6 additional portable restrooms directly on the beach, seconded by Task Force Member Mahan. The motion carried unanimously.

V. ADJOURNMENT.

There being no further business, Chairman Guillot adjourned the meeting at 3:47 p.m.

Erika Hughston, Shoreline GSPA

Virginia Guillot, Chairman

**MINUTES OF WORKSHOP
CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE**

MONDAY, JANUARY 20TH, 2020

I. CALL TO ORDER.

The Shoreline Task Force of the City of South Padre Island, Texas held a workshop on Monday, January 20th, at the Municipal Complex Building, 2nd Floor, 4601 Padre Boulevard, South Padre Island, Texas. Chairman Virginia Guillot called the meeting to order at 10:00 a.m. A quorum was present with: Task Force Members Virginia Guillot, Abbie Mahan, Stormy Wall, Norma Trevino, Kyle Adams, and Michael Sularz. Absent, Task Force Member Rob Nixon.

City Council Members Kerry Schwartz and Ken Medders were present. City staff present included City Manager Randy Smith, Shoreline Director Kristina Boburka, Coastal Resource Manager Mackenzie Yoder, and Shoreline Grant and Special Projects Administrator Erika Hughston.

II. PLEDGE OF ALLEGIANCE.

Chairman Virginia Guillot led the Pledge of Allegiance.

III. PUBLIC COMMENTS AND ANNOUNCEMENTS:

Task Force Member Abbie Mahan said a few words regarding Clayton's pier project and increased activity in the area of construction. City Council Member Ken Medders said a few words to welcome and thank Shoreline Taskforce Members for their service to the community.

IV. REGULAR AGENDA

1. DISCUSSION ON LOCAL AND STATE REGULATIONS AND PLANS.

Shoreline Director Kristina Boburka explained relevant state laws such as Texas Administrative Code and Natural Resource Code as well as permitting, processing, and protection east of the Dune Protection Line. Boburka explained the Beach Access and Use Plan currently on file with the Texas General Land Office and the process of updating certain aspects of it including Chapter 22 of the City's Code of Ordinances.

There was some discussion regarding Chapter 22, asking the GLO to approve a variance from TAC 31, and trimming vegetation (retaining wall/walkway maintenance).

Shoreline Director Kristina Boburka continued into the Shoreline Master Plan and provided brief explanations of key aspects of the Plan such as Education, Tourism, Conservation, and Public Access. With no questions regarding the Shoreline Master Plan, Boburka continued into the Beach Access and Use Plan and key aspects such as updating Chapter 22 of the City's Code of Ordinances, Beach Access and Parking Guides, and the City's Erosion Response Plan. There were no further questions or discussion from Task Force Members.

2. UPDATE ON SHORELINE DEPARTMENT PROJECTS.

Shoreline Director Kristina Boburka gave a presentation about who worked in the Shoreline Department, what the general purpose of the department was, and current as well as future projects on both the Bay side and Beach side of South Padre Island.

There was some discussion regarding dredging of the Brownsville Channel and subsequent placement of material. There was also some discussion regarding an upcoming dredge of the Thompkins Channel and subsequent placement of that material.

At the end of the presentation Chairman Virginia Guillot asked for clarification regarding the Beach User Fee Plan and updating the Beach Access and Use Plan on file with the Texas General Land Office. Task Force Member Norma Trevino asked for clarification and a timeline regarding the process of submission of an updated Plan.

Chairman Virginia Guillot asked a few questions regarding updates to Chapter 22 of the City's Code of Ordinances and Task Force Member Stormy Wall inquired about creating a new permit for maintenance of existing walkways compared to creating entirely new walkways as well as methods of expediting the permitting process.

Chairman Virginia Guillot asked for clarification regarding who maintained the beach side and beach accesses. Shoreline Director Kristina Boburka stated all beach and bay maintenance was performed by the Shoreline Department and that Public Works only serviced the permanent restrooms at Beach Accesses #3 and #11.

Task Force Member Norma Trevino inquired about the arrival of Mobi-chairs and the related grant. There was some discussion regarding the Fire Department and movement of Mobi-chairs.

Task Force Member Abbie Mahan commented on focusing more attention on the bay accesses and living shoreline initiative. Chairman Virginia Guillot later added some discussion regarding public boat ramps and parking for fishermen on South Padre Island.

City Council Member Ken Medders inquired about Christmas tree placement in the dunes.

Task Force Member Michael Sularz inquired about the number of people employed by the Shoreline Department and a member of the public inquired about the on-sight supervisor for beach maintenance.

Chairman Virginia Guillot provided a brief recap of questions brought forward by other Shoreline Task Force Members.

V. ADJOURNMENT.

There being no further business, Chairman Guillot adjourned the meeting at 11:00 a.m.

Erika Hughston, Shoreline GSPA

Virginia Guillot, Chairman

**MINUTES OF REGULAR MEETING
CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE**

TUESDAY, JANUARY 28TH, 2020

I. CALL TO ORDER.

The Shoreline Task Force of the City of South Padre Island, Texas held a regular meeting on Tuesday, January 28th, at the Municipal Complex Building, 2nd Floor, 4601 Padre Boulevard, South Padre Island, Texas. Chairman Virginia Guillot called the meeting to order at 3:00 p.m. A quorum was present with: Task Force Members Virginia Guillot, Abbie Mahan, Stormy Wall, and Michael Sularz. Absent, Task Force Members Kyle Adams, Norma Trevino, and Rob Nixon.

City Council Members Ken Medders and Eva Jean Dalton were present. City staff present included City Manager Randy Smith, Parks and Recreation Manager Debbie Huffman, Shoreline Director Kristina Boburka, Coastal Resource Manager Mackenzie Yoder, and Shoreline Grant and Special Projects Administrator Erika Hughston.

II. PLEDGE OF ALLEGIANCE.

Chairman Virginia Guillot led the Pledge of Allegiance.

III. PUBLIC COMMENTS AND ANNOUNCEMENTS:

Task Force Member Abbie Mahan announced additional thrift stores willing to donate toys to the Borrow Bin pilot project. GSPA Erika Hughston provided an update regarding the RESTORE grant.

IV. REGULAR AGENDA

1. UPDATE ON THE MAINTENANCE DREDGING OF THE BROWNSVILLE SHIP CHANNEL ENTRANCE.

Shoreline Director Kristina Boburka stated that the department has contacted Great Lakes Dredge and Dock Company as well Congressman Vela’s staff and has yet to hear back from either party regarding the return of the dredge and offshore placement of beneficial use material.

2. DISCUSSION AND ACTION ON THE MAINTENANCE DREDGING OF TOMPKINS CHANNEL.

Shoreline Director Kristina Boburka provided a brief overview of the project idea, where the channel has not been dredged since 2010 and is due for an update. There was some discussion regarding lease renewal with the Texas General Land Office, grant opportunities, and different options including extending the channel from its point of origin near the Queen Isabella Memorial Causeway to a point as far north as conditions would allow. Chairman Guillot made a motion, seconded by Task Force Member Stormy Wall to recommend City staff send out Requests for Qualifications for surveying, engineering, and possible extension. The motion carried unanimously.

3. DISCUSSION AND ACTION ON CHAPTER 22 OF THE CITY'S CODE OF ORDINANCES.

After some discussion, Chairman Guillot motioned to table discussion and action until the February 11, 2020 Shoreline Task Force meeting. Task Force Member Sularz seconded the motion which carried unanimously.

4. DISCUSSION AND ACTION ON BEACH ACCESS RESTROOMS.

After some discussion, Task Force Member Abbie Mahan made a motion to pursue grants to improve Beach Access #5, seconded by Task Force Member Stormy Wall. Task Force Member Abbie Mahan also asked for clarification regarding Venue Tax money and potential use for beach access and restroom improvements.

5. DISCUSSION AND POSSIBLE ACTION ON CURRENTLY CLOSED BEACH ACCESSES FROM THE WINTER BEACH.

Shoreline Director Kristina Boburka provided a brief presentation regarding the temporary closure of Beach Accesses #22 and #23. After some discussion, the Task Force was assured that the beach accesses would continue to be monitored.

V. ADJOURNMENT.

There being no further business, Chairman Guillot adjourned the meeting at 3:57 p.m.

Erika Hughston, Shoreline GSPA

Virginia Guillot, Chairman

**CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE
AGENDA REQUEST FORM**

MEETING DATE: February 11, 2020

NAME & TITLE: Kristina Boburka, Shoreline Director

DEPARTMENT: Shoreline Department

ITEM

Discussion on selected Coastal Management Program grant application for Cycle 25- Whitecap Circle Improvement.

ITEM BACKGROUND

The City's Coastal Management Program (CMP) application to improve Whitecap Circle will go on to be reviewed by the National Oceanic & Atmospheric Administration. Final award expected October 2020.

BUDGET/FINANCIAL SUMMARY

Total funds that would be awarded by the Texas General Land Office is \$200,000.

COMPREHENSIVE PLAN GOAL

Chapter III. Parks and Resources

GOAL 1: The City shall ensure protection and conservation of natural resources, such as beaches, dunes, wetlands, Laguna Madre waterfront and native flora and fauna, allowing for their sustainable use and enjoyment by future generations.

Objective 1.1 Beach and dunes shall be protected from both natural and artificial erosion.

LEGAL REVIEW

Sent to Legal:

Approved by Legal:

RECOMMENDATIONS/COMMENTS:

**CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE
AGENDA REQUEST FORM**

MEETING DATE: February 11, 2020

NAME & TITLE: Kristina Boburka, Shoreline Director

DEPARTMENT: Shoreline Department

ITEM

Discussion and action on Chapter 22 of the City's Code of Ordinances.

ITEM BACKGROUND

Staff is continuously working with the Texas General Land Office on solutions. Shoreline staff would like to update the Task Force on how we most likely will be able to proceed to be in compliant with State laws. Please find attached the working draft of Chapter 22.

BUDGET/FINANCIAL SUMMARY

None.

COMPREHENSIVE PLAN GOAL

N/A

LEGAL REVIEW

Sent to Legal:

Approved by Legal:

RECOMMENDATIONS/COMMENTS:



Beach & Dune Application

City of South Padre Island
4601 Padre Blvd.
South Padre Island, TX 78597
Phone: (956) 761-3044
Fax: (956) 761-3898

Site for Proposed Work

Legal Description: _____ Physical Address: _____

Property Owner Information

Name: _____
Mailing Address: _____
City: _____ State: _____
Zip: _____ Country: _____
Phone Number: _____
Fax Number: _____
E-Mail Address: _____

Applicant / Agent for Owner

Name: _____
Mailing Address: _____
City: _____ State: _____
Zip: _____ Country: _____
Phone Number: _____
Fax Number: _____
E-Mail Address: _____

I / We, owners of the above-mentioned property, authorize the applicant stated above, to act in my behalf in order to acquire a Beach and Dune permit for the construction proposed below. (owner initials here _____)

Owner(s) Signature(s): _____
Date: _____

Applicant Signature: _____
Date: _____

Project Description

Describe with as much as detail as possible, the construction proposed. If more room is needed, please include an additional page. Include the number of habitable units, amenities, swimming pools, fences, kinds of fences, whether footings and/or retaining walls will be installed, and locations of proposed landscaping and parking.

Total Square Footage of Footprint of Habitable Structure: _____

Total Area of Impervious Surface (i.e. retaining walls, walkways, drives, patios, etc.): _____

Percentage Impervious Surface [(impervious surface / habitable footprint)* 100]: _____

Please Note: the percentage of impervious surface cannot exceed 5% in an eroding area.

Approximate Duration of Construction: _____

Financial Plan for the Removal of All Hard Structures

All properties which are allowed to build retaining walls on their property are allowed to do so with the condition that a financial plan for the removal of the retaining wall is submitted to the Public Works Department of the City of South Padre Island. Removal of the retaining wall at the owner's expense may be required if/once the retaining wall comes into regular contact with wave action for twenty (20) out of thirty (30) consecutive days. The City accepts the submission of a Retaining Wall Covenant, or other financial guarantee, insuring the removal of the retaining wall if the required conditions are met.

Type of Plan Submitted: _____ Date Submitted: _____

Drainage

Describe the impact that the proposed construction will have on the natural drainage pattern on the site and adjacent lots.

- No change in the drainage on site.
- The proposed construction will change the grading and the drainage on the subject property. (An explanation will be required detailing where the water will drain.)

Explanation / Other Information: _____

Impacts to Beach / Dune System

Answer each question as completely as possible in narrative form.

1. What damage will this proposed construction have on the dune vegetation located at the project site?

- No damage to dune vegetation whatsoever.
- The proposed construction will impact _____% of the dune vegetation site. (An explanation of the "impact" will be required.)
- The proposed construction will require the removal and relocation of _____% of the dune vegetation on site. (The submission of a mitigation plan will be required.)

Explanation / Other Information: _____

2. How will the proposed construction alter the dune size/shape at the project site?

- No change to dune size/shape whatsoever.
- The proposed construction will change _____% of the size/shape of dunes on site. (Details will be required.)
- The proposed construction will require the removal and relocation of _____% of the dunes on site. (The submission of a mitigation plan will be required.)

Explanation / Other Information: _____

3. How will the proposed construction change the hydrology of the dunes at the project site?

- No change to dune hydrology whatsoever.
- The proposed construction will impact dune hydrology on site. (Details will be required.)

Explanation / Other Information: _____

4. Describe alternatives to the proposed construction or method of construction which will cause fewer or no adverse effects on dunes and dune vegetation.

5. Describe alternatives to the proposed construction or method of construction which will cause fewer or no adverse impairment to beach access.

Mitigation Plan

Describe the methods which you will use to avoid, minimize, mitigate and/or compensate for any adverse effects on dunes or dune vegetation.

Explanation / Other Information: _____

Financial Plan for Dune Mitigation:

If required by the City Council, a financial guarantee (irrevocable letter of credit or a performance bond, etc.) may be necessary to insure the mitigation of dunes/dune vegetation takes place as proposed and required of the applicant.

Type of Plan Submitted: _____ Date of Submission: _____

Checklist of Additional Required Application Information

An accurate map, plat or site plan showing:

- 1. Legal description of the property (lot, block, subdivision) and the immediately adjoining property.
- 2. Location of all existing structures - including the habitable and inhabitable structures, swimming pools, decks, fences, parking areas, landscape areas, etc.
- 3. Location of the Historical Building Line on the subject property and the extension of the line on the properties immediately adjoining the subject property to the north and to the south.
- 4. Location and elevation of existing retaining walls - both on the subject property and those properties immediately adjoining the subject property to the north and to the south.
- 5. Location of proposed structure(s) - if proposing the construction of a retaining wall, please also include the proposed elevation of the retaining wall.
- 6. Location of proposed driveways, parking areas (showing the # of proposed parking spaces) and landscape areas.
- 7. Location of all existing and proposed beach access paths and/or dune walkovers.
- 8. Location and extent of any man-made vegetated mounds, restored dunes, fill activities, or any other pre-existing human modifications on the tract.
- 9. Topographical survey of the site identifying all elevations, existing contours of the project area (including dunes and scales) and the proposed contours of the final grade.

Other required application information:

- 1. A grading and layout plan showing proposed contours for the final grade.
- 2. The floor plan(s) and elevation(s) of the structure proposed to be constructed or expanded.
- 3. Photographs of the site which clearly show the current location of the vegetation line & existing dunes on the tract within the last 6 months.
- 4. Copy of the Flood Rate Map showing the location of the subject property (<https://msc.fema.gov/portal/home>)
- 5. Copy of the Historical Erosion Rate Map as determined by the University of Texas at Austin, Bureau of Economic Geology (<https://coastal.beg.utexas.edu/shorelinechange2012>)
- 6. Application Fee of \$180 for Staff Approved applications and \$300 for City Council Approved applications.

Your application is not complete unless all information requested above is submitted.

BEACH and DUNE PROTECTION PERMIT



City of South Padre Island
 P.O. Box 3410
 South Padre Island, TX
 78597
 Telephone (956) 761-8166

AMENDED VERSION

1. Legal Description:

3. NAME OF OWNER: _____ **PH#** _____

4. Owner mail address: _____

5. NAME OF Applicant: Jose Leal **PH#** _____

6. Applicant mail address: _____

7. Date Approved by Shoreline Task Force: _____ **8. Date Approved by the City Council:** _____

9. Description of approved work:

Conditions: 1) The construction will not increase the impervious surface on site; 2) The construction will not impact, whatsoever, access to, from or along the public beach; 3) The applicant may not permanently damage any dune vegetation or clear or remove any vegetation on either side of the pathway for the purpose of facilitating construction; 4) Should there be any temporary adverse effects to dunes and dune vegetation not identified in the permit application, the applicant is required to submit a mitigation plan that includes a detailed description of the methods that will be used to avoid, minimize, and mitigate for any adverse effects on dune vegetation; 5) The seaward terminus of the dune walkover must be restricted to the greatest extent possible to the most landward point of the public beach and must not interfere with or otherwise restrict public use of the beach at normal high tides; 6) Concrete may not be used to stabilize the base of the pilings for the dune walkover; 7) The applicant must restore or repair dunes using indigenous vegetation that will achieve the same protective capability as the surrounding natural dunes; 8) all conditions as per the GLO Letter dated XXX

Please read and initial the following

If the proposed work is not completed within six (6) months, this permit becomes null and void, unless construction has started and the applicant continues to hold a valid building permit for the construction of the project. Initial _____

I hereby certify and agree that all of the provisions of the local and state Beach and Dune rules and regulations, building code, the zoning ordinance, and the ordinances of the City of South Padre Island will be complied with whether herein specified or not. The permit may be revoked at any time upon violation of any of the provisions of said regulations. I hereby agree to save, indemnify and keep harmless the City of South Padre Island against all liabilities, judgments, costs and expenses which may in any way accrue against said City by consequence of the granting of this permit, or from the use or occupancy of any sidewalk, street or sub-sidewalk placed by virtue thereof and will in all things strictly comply with the conditions of this permit. Initial _____

I hereby acknowledge that the information given is true and correct to the best of my knowledge, and that I am the owner or the duly authorized agent of the owner. I agree to comply with City and state laws regulating construction on the beach and in doing the work authorized thereby. I understand that responsibility for compliance rests with the permit holder. Initial _____

Printed Name of Applicant

Signature of applicant

Date

Kristina Boburka, Shoreline Director

City of South Padre Island Code of Ordinances

Chapter 22 – Dune Protection, Beach Renourishment, and Beach Access Plan Implementing Provisions

Sec. 22-1. – Definitions.

For the purpose of this ordinance, the following words and terms as used herein are defined to mean the following:

Beach Access and Use Plan shall be that plan that is adopted by the ~~Town~~ **City** of South Padre Island pursuant to 61.015 of the Texas Natural Resources Code (~~i.e. this document~~).

Beach and Dune Protection Permit means a permit that is required for all construction activities east of the Dune Protection Line, and which requires the full review and approval of the General Land Office, the Office of the Attorney General, the ~~Beach and Dune~~ **Shoreline** Task Force, and the ~~Board of Aldermen~~ **City Council**.

~~*Beach and Dune Task Force* means an advisory body consisting of seven (7) individuals appointed by the Board of Aldermen whose task shall be to review and make recommendations to the Board of Aldermen regarding Beach and Dune Protection permit applications and the Beach Access Plan.~~

***City* means all area within the corporate municipal limits of the City of South Padre Island, Texas.**

Coppice Mounds means the initial stages of dune growth formed as sand accumulates on the downwind side of plants and other obstructions on or immediately adjacent to the beach seaward of the foredunes. Coppice mounds may be unvegetated.

Construction means causing or carrying out any building, bulk heading, filling, clearing, excavation, or substantial improvement to land or the size of any structure. "Building" includes, but is not limited to, all related site work and placement of construction materials on the site; however, "Building" does not include maintenance activities. "Filling" includes, but is not limited to disposal of dredged

materials. "Excavation" includes, but is not limited to removal or alteration of dunes and dune vegetation and scraping, grading, or dredging a site. "Substantial improvements to land or the size of any structure" includes, but is not limited to creation of vehicular or pedestrian trails, landscape work (that adversely affects dunes or dune vegetation), and increasing the size of the structure.

Critical Dune Area means those portions of the beach/dune system as designated by the Texas General Land Office, that are located within 1,000 feet of mean high tide of the Gulf of Mexico that contain dunes and dune complexes that are essential to the protection of public beaches, submerged land, and State-owned land, such as public beaches and coastal public lands, from nuisance, erosion, storm surge, and high wind and waves. Critical dune areas include, but are not limited to, the dunes that store sand in the beach/dune system to replenish eroding public beaches. Specifically within the corporate municipal limits of the ~~Town~~ **City** of South Padre Island, Critical Dune Areas encompass the undeveloped portions of the ~~Town~~ **City** east of the right-of-way of Gulf Blvd. and the extension thereof, or 1000 ft west of mean high tide, whichever is lesser.

Damage to Dunes means any unauthorized alteration to dunes or dune vegetation.

Designated Beach Access Areas means all dedicated street rights-of-way abutting the Gulf of Mexico and any other dedicated beach access route(s) that may be designated as a beach access area.

Dune means a natural or man-made emergent mound, hill, or other ridge of sand either bare or vegetated, located on land which is adjacent to the waters of the open Gulf of Mexico.

Dune Enhancement Permit and Restoration means ~~a permit issued by the City Manager or designee after the applicant has satisfied the City that the proposed activities~~ **activity, approved under a Beach and Dune Protection permit, that will only elevate dune height and/or promote dune vegetation propagation; will not negatively impact or alter existing dunes and/or dune vegetation; and is consistent with the ~~Town's~~ City's plan to create a continuous dune line.**

Dune Protection, Beach Renourishment, and Access Plan Ordinance means Chapter 22 of the City of South Padre Island Code of Ordinances.

Dune Protection Line means a line established within the ~~Town~~ **City** of South Padre Island that shall be the East ~~Right-of-Way~~ of Gulf Blvd and a line extended therefrom to the ~~North and South boundaries of the Town, or a line 1,000 feet landward from mean high tide, whichever is lesser.~~ **North property line of Lot 20 of Padre Beach Estates and to the southern boundaries of the City's Corporate Limits, or 1000 feet from Mean High Tide whichever is lesser. In the area of The SHORES Subdivision, the Dune Protection Line is designated as the East Right-of-Way of Texas State Park Road 100 or 1000 feet from Mean High Tide, whichever is lesser.**

(Ord. No. 06-02, 4-5-2006)

Dune Ridge Construction* means those ~~Town~~ **City**-sponsored and authorized activities involved solely with modifying the shape and/or size of dunes and/or dune vegetation east of the Historic Building Line. ~~In those instances where dune heights and/or dune vegetation are proposed to be elevated and/or enhanced, the City Manager or designee is given the authority to permit the activity.~~ **However, In those instances where activity qualifies as Dune Enhancement and Restoration OR those instances where dune height(s) and/or dune vegetation is/are proposed to be reduced, the property owner will be required to submit an application for a ~~Dune Ridge Construction~~ **Beach and Dune Protection** Permit that will be reviewed and approved by the ~~Town~~ **City**, the General Land Office, and the Office of the Attorney General.*

Erosion is the wearing away of land or the removal of beach and/or dune material by wave action, tidal currents, littoral currents or deflation. Erosion includes but is not limited to horizontal recession and scour and can be induced by human activities.

FEMA means the Federal Emergency Management Agency of the United States Government. This agency administers the national Flood Insurance Program and the Flood Insurance Rate Maps.

Foredune means those dunes which offer the first significant means of dissipating storm generated wave and current energy ensuing from the open Gulf of Mexico. Because various heights and configuration of dunes may perform this function, no standardized physical description can be offered. However, where they occur, foredunes are distinguishable from surrounding dune types by their relative location and physical appearance. Foredunes are the first distinguishable, usually grass-covered stabilized large dunes encountered landward from the open Gulf of Mexico. Although they may be large and continuous, foredunes are typically hummocky and discontinuous, and are often interrupted by breaks and wash over channels.

GLO means the General Land Office of the State of Texas.

Historic Building Line shall mean that line established by the Texas Attorney General that indicates the buildable depth line for the construction of buildings or structures on or to the landward side of the line. The only exceptions to construction seaward of this line shall be that area designated in the survey labeled "Exhibit B" for Lots 1, 2, 3, & 4 of Block 156 Padre Beach Subdivision, Section X (Ord. No. 05-07, 5-4-2005). The Historic Building Line is located on a map (drawn by Chas R. Haile Associates, Inc., Consulting Engineers, Houston, Texas City, Corpus Christi, Nederland, dated March 1981) provided by the Texas Attorney General and is on file with the ~~Public Works~~ **Shoreline** Department of the ~~Town~~ **City** of South Padre Island. The line was intended to retain a minimum of two hundred feet of open beach above the mean low tide line according to then available data and is subject to change by the Attorney General to ensure the protection of the State's open beaches.

Line of Vegetation means the extreme seaward boundary of natural vegetation which spreads continuously inland.

Maintenance (Maintenance Activities) means those activities involved with repairing and/or renovating existing structures and those that do not alter or increase the footprint of existing structures, increase the impervious surface on the property, impact the public's access to or use of the beach, or adversely impact dunes and/or dune vegetation. Maintenance activities include, but are not limited to: repairing or replacing siding, steps, roofs, windows, doors, fences, sidewalks, landscaping. Maintenance activities will require a Property Maintenance Permit.

Manufacture means something made from raw materials by hand or by machine. (i.e. anything man-made).

Practicable. In determining what is practicable, the City shall consider the effectiveness, scientific feasibility, and commercial availability of the technology or technique, as well as the cost of the technology or technique.

Property Maintenance Permit means a permit which is required for all maintenance activities east of the Dune Protection Line that can be issued by the City Manager or designee Shoreline Department without the necessary review of the General Land Office, Office of the Attorney General, Beach and Dune Shoreline Task Force, and the Board of Aldermen City Council.

Public Beach means any beach bordering on the Gulf of Mexico that extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or such larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time in memorial as recognized by law or custom. This definition does not include a beach that is not accessible by a public road or ferry as provided in Section 61.021 of the Texas Natural Resources Code.

Retaining Wall means a structure designed primarily to contain material and to prevent the sliding of land.

Retaining Wall/Walkway Maintenance means those activities that result in the raking and/or moving of debris, litter, trash and non-vegetated sand that has accumulated in designated walkways or within ten (10) feet of an established retaining wall or fence. Retaining wall / Walkway maintenance activities shall not be construed to allow excavation, trimming, or disturbance of natural dune formations seaward of the dune protection line or the removal of sand, either temporary or permanent, from the beach/dune system within the ~~Town~~ **City**. Pursuant to the Texas Administrative Code [31§15.3 (s)(1)(B)] and the Texas Natural Resources Code (Sec. 63.091), “Retaining Wall/Walkway Maintenance” does not constitute any modification of any dune vegetation in any manner.

Retaining Wall/Walkway Maintenance Permit means a permit which is required for all retaining wall/walkway maintenance activities east of the Dune Protection Line that can be issued by the City Manager or designee **Shoreline Department** without the necessary review of the General Land Office, Office of the Attorney General, ~~Beach and Dune~~ **Shoreline** Task Force, and the ~~Board of Aldermen~~ **City Council**.

Seawall means a manufactured embankment located along a shoreline designed and engineered specifically to withstand flooding and wave action. Seawalls are not authorized east of the City's Dune Protection Line.

Shoreline Department means a City entity that manages the beach and dune systems as well as the bay system within the City of South Padre Island. The department acts as a liaison between the City and the Texas General Land Office as well as other state and federal agencies in order to ensure compliance with state and federal law related to the aforementioned shoreline systems.

Shoreline Task Force means an advisory body consisting of seven (7) individuals appointed by the City Council whose task shall be to review and make recommendations to the City Council regarding Beach and Dune Protection permit applications and the Beach Access Plan.

Structure includes, without limitation, any building or combination of related components constructed in an ordered scheme that constitutes a work or improvement construction on or affixed to land.

~~*Seawall* means a manufactured embankment located along a shoreline designed and engineered specifically to withstand flooding and wave action. Seawalls are not authorized east of the City's Dune Protection Line.~~

~~*Town* means all area within the corporate municipal limits of the Town of South Padre Island, Texas~~

Washover means local areas that channel hurricane flood tide across barrier islands and peninsulas into bay areas.

Sec. 22.2. – General provisions.

A. The ~~Board of Aldermen~~ City Council does hereby establish the ~~Beach and Dune~~ Shoreline Task Force whose charge it shall be to identify problems, develop goals and objectives, and develop a strategy plan to give advice and to make recommendations to the ~~Board of Aldermen~~ City Council on the *Dune Protection, Beach Renourishment and Access Plan* and for the renourishment of the beach within the ~~Town~~ City. In addition to the duties and functions as provided in this chapter, the Shoreline Task Force may also make recommendations to the City Council pertaining to the following:

- 1. Bay accesses;**
- 2. Boat ramps;**
- 3. Parking for boat trailers and vehicles;**

4. **Public Safety of the Bay;**
5. **Marina feasibility;**
6. **Bay side issues;**
7. **Any additional tasks assigned by the City Council.**

B. The Town City of South Padre Island shall endeavor to protect the dune system and the foredune line within the corporate municipal limits of the Town City. The foredunes offer protection and provide a buffer against ~~storms~~ significant weather events and accelerated sea level rise, and will keep sand in the beach dune system.

1. The Town City, when considering any Beach and Dune Protection Permit, shall strive to avoid any damage and destruction to dunes, and in particular the foredunes and the foredunes ridge to the maximum extent practical. The foredunes and the foredune ridge are the primary focus of protection; however, they depend on the backdunes for preservation. The backdunes upon which the foredunes and the foredune ridge depend shall be protected by the same standard that protects the foredunes and foredune ridge. Therefore, damage and destruction to backdunes that actively exchange sand with and extend vegetation to foredunes and the foredune ridge shall be avoided to the maximum extent practicable.
2. Every dune in the beach/dune system is linked to and dependent upon the other dunes for survival. Therefore, the backdunes that do not directly protect and preserve foredunes and the foredune ridge shall be protected to the maximum extent practicable
3. Hurricane storm surge is the most destructive element on the Texas coast. As this is particularly true for South Padre Island, where elevations are low and continuous dunes are lacking, it is recognized and established that the primary focus is to protect the foredune area and the foredune ridge. At the same time, protection of all dunes east of the Dune Protection Line will continue.

- C. The ~~Town~~ City of South Padre Island recognizes the importance of beach renourishment to stabilize and protect the public beach. The significance of tourism and its contribution to the economy reinforce the necessity to renourish our most precious resource—the beach. The ~~Town~~ City of South Padre Island shall provide for the renourishment of ~~our~~ the beach and appropriate the resources necessary to accomplish this project. The ~~Town~~ City of South Padre Island shall develop a dune system in front of all properties to offer a protection from severe storm and beach erosion.
- D. The ~~Town~~ City of South Padre Island will not abandon, relinquish or convey any right, title, easement, right-of-way, street, path or other interest that provides existing or potential beach access, unless an alternative equivalent or better beach access is first provided consistent with the ~~Town's~~ City's *Dune Protection, Beach Renourishment and Access Plan*.
- E. The City of South Padre Island does hereby adopt an Erosion Response Plan, to explore means and methods to reduce the public expenditures due to damage to property and infrastructure that can result from shoreline change, erosion, and storm conditions. The plan is filed with the City Secretary and is located on the City's website.

(Ord. No. 12-09, 8-1-2012)

Sec. 22-3. – ~~Beach and Dune~~ Shoreline task force-appointment.

- A. The initial Task Force shall consist of the current members of the Beach and Dune Task Force and the Bay Area Task Force Implementation Committee with the same term expiration of the appointment to those respective boards. When the current six (6) members that have a term that expires on September 30, 2011 only two of the seats may be filled and the membership shall be reduced to seven (7) members.
- B. After September 30, 2011 the Shoreline Task Force will be composed of seven (7) members and the members shall draw numbers (between 1 and 7) to affix numbers to each seat. The two members

appointed or re-appointed as provided in "A" above will have a two year term and the remaining five members that have terms that expire on September 30, 2012 will draw to determine which one of their seat positions will only be appointed for a one time one year term, so that thereafter terms will be staggered with two year terms with three seats one year and four the next year.

- C. All terms shall expire on December 31 of the year said members term is scheduled to expire or until their successor is appointed. Any vacancies for a position/seat shall be filled for the unexpired term of that position. A member shall hold office until his/her successor has been appointed by the City Council.

~~The Board of Aldermen may appoint seven (7) individuals to serve on the Beach and Dune Task Force. The appointment of individuals shall be for two (2) year terms, such terms to be staggered, and all terms shall expire on September 30 of the year said members term is scheduled to expire or until their successor is appointed. The Task Force shall elect one of the members as Chairperson, and the Chairperson may not make or second motions and may only vote to break a tie vote and if the Chairperson is absent the members shall appoint a temporary Chairperson to preside at the meeting. The Board of Aldermen may remove any appointee to the Beach and Dune Task Force at any time. The initial members appointed by the Board of Alderman shall have three (3) members appointed for a one (1) year term and four (4) members appointed for a two (2) year term, and thereafter all appointments will be for a two year term.~~

- D. The Task Force shall elect one of the members as Chairperson and another as vice-Chairperson, and if the Chairperson is absent the vice-Chairperson shall preside at the meeting. The Chairperson will function as a voting member of the SLTF.

(Ord. No. 18-14, 5-16-2018)

Sec. 22-3.1. – Meetings.

The ~~Beach and Dune~~ **Shoreline** Task Force shall conduct all its meetings in a public setting and shall follow all of the procedures required by the Open Meetings Act in the conduct of all its business. **The majority of the appointed members of the Shoreline Task Force shall constitute a quorum but no action of the Shoreline Task Force shall be of any force or effect unless it is adopted by a favorable vote of four (4) or more members.**

Sec. 22-3.2. – Guidelines.

A. The ~~Beach and Dune~~ **Shoreline** Task Force has adopted general guidelines as stated within this plan for the construction of a continuous dune line based upon a 1993 study conducted by Robert A. Morton: *Beach and Dune Conditions at South Padre Island, Texas; Assessment and Recommendations* (Bureau of Economic Geology, The University of Texas at Austin). Additional specifications and/or guidelines for the preservation and enhancement of dunes shall be consistent with the above 1993 study as well as *Dune Protection and Improvement Manual for the Texas Gulf Coast* (as published and amended by the General Land Office).

Sec. 22-4. – Dune protection line.

The ~~Board of Aldermen~~ **City Council** does hereby establish a Dune Protection Line. Such line shall be the East ~~Right-of-Way~~ line of Gulf Boulevard and a line extended therefrom to ~~both the North and South boundaries of the Town, or 1,000 feet landward of the mean high tide, whichever is lesser.~~ **North property line of Lot 20 of Padre Beach Estates and to the southern boundaries of the City's Corporate Limits, or 1000 feet from Mean High Tide whichever is lesser. In the area of The SHORES Subdivision, the Dune Protection Line is designated as the East Right-of-Way of Texas State Park Road 100 or 1000 feet from Mean High Tide, whichever is lesser (Ord. No. 06-02, 4-5-2006).** The Dune Protection Line is applicable to all areas within the corporate municipal limits of the ~~Town~~-**City** and no area seaward of the Dune Protection Line within the City is exempt from this Chapter.

- A. A portion of the Dune Protection Line is also depicted on the Historic Building Line Map dated March 1981, which Map is also the same Map furnished to the Town-City by the Office of the Texas Attorney General and is on file with the Public Works Shoreline Department of the Town-City of South Padre Island, Texas. The map shows the East Right-of-Way line of Gulf Boulevard as that line is extended to both the North and South boundaries of the Town-City. The East Right-of-Way line of Gulf Boulevard is tied to specific monuments on Gulf Boulevard and the existing monuments are referenced to the Texas State Plane Coordinate System
- B. For Lot 1, Block 1, Padre Island Inn Subdivision, the Building Line shall be the currently existing Shores Building Line as established by the SHORES Subdivision in conjunction with the GLO and the U.S. Army Corps of Engineers, and such line shall be a linear extension of the existing, established Shores Building Line, and such line shall extend north and south to the extent of the property boundaries.
(Ord. No. 17-02, 5-3-2017)
- C. For unsubdivided, 6.5 acres leasehold, addressed 7010 Padre Boulevard the Dune Protection Line shall be set in accordance with the line surveyed October 3, 2018, encompassing all critical dune areas within the property and extend north and south to the extent of the property boundaries. The Historic Building Line shall be extended across the property from the northern property line of Lot 20 of Padre Beach Estates to the northern property line of unsubdivided, 6.5 acres leasehold, addressed 7010 Padre Boulevard.
(Ord. No. 18-25, 12-5-2018)
- D. The Dune Protection Line is a "moving" line changing with shoreline changes, and subject to modification. The Dune Protection Line shall be reviewed at least every five (5) years to determine if the line is adequately located to achieve the purpose of preserving critical dune areas. In addition to

the five-year review, the ~~Town~~-City will review the adequacy of the Line within Ninety (90) days after a Tropical Storm or hurricane affects the beach within the ~~Town~~-City limits.

Sec. 22-5. – Foredune line.

The ~~Town~~-City of South Padre Island shall endeavor to enhance and/or establish a foredune line within the corporate municipal limits of the ~~Town~~-City. Such line will offer protection and be used as a buffer against ~~storms~~ significant weather events and will keep sand in the beach/dune system.

Sec. 22-6. – ~~Town~~-City permit exemptions.

The activity of the ~~Town~~-City shall at all times be consistent with the ~~Town's~~-City's mission of preserving and enhancing the beach and public beach accesses located within the ~~Town~~-City of South Padre Island. In order to promptly and adequately address the needs of the public, the ~~Town~~-City of South Padre Island will not be required to obtain a permit for the following activities:

- A. Cleaning and grooming of the beaches within the ~~Town~~-City that does not damage dunes and/or dune vegetation.
- B. ~~Town~~-City designated public beach access dune walkover construction, clearing and maintenance activities.
- C. ~~Town~~-City -sponsored beach renourishment projects.
- D. ~~Town~~-City -sponsored dune ridge construction projects that solely involve bringing in more beach quality sand for dune ridge construction and/or the planting of indigenous dune vegetation neither activity of which adversely impact existing dunes or dune vegetation, or the public's access to or use of the beach.
- E. The use of ~~Town~~ official City vehicles (~~police, public works or emergency vehicles~~) on the Beach.

Sec. 22-7. – Permits and approvals required.

- A. An applicable permit is required for all construction, maintenance, dune management activities and/or retaining wall / walkway maintenance east of the Dune Protection Line. A permit must be obtained from the City prior to any activity. Failure to acquire a permit prior to any construction activity east of the Dune Protection Line is subject to penalty as is or may be provided in this or any other ordinance of the City. Such penalty for failure to acquire a permit when necessary can result in a fine, removal, restoration, and/or remediation orders.
- B. Permits issued pursuant to this Chapter shall be accompanied by a permit fee established by the City Council. The City Council may establish and/or modify fees for the issuance of any permits mentioned within this Chapter 22 by resolution.

Sec. 22-8. – City Manager or ~~designee~~ **Shoreline Department** authorized permits.

- A. The following permits under this Sec. 22-8 may be authorized directly by the City Manager or ~~designee~~ **Shoreline Department** and are not required to be reviewed or approved by the ~~Beach and Dune Shoreline~~ Task Force, the General Land Office, or the Office of the Attorney General. The City Manager or ~~designee~~ **Shoreline Department** may authorize permits under this Section 22-8 only if the proposed activity will not:
 1. Increase or alter the footprint of an existing structure;
 2. Increase the impervious surface on the property;
 3. Adversely affect dunes or dune vegetation; and/or
 4. Obstruct the public's access to or use of the beach.
- B. The City Manager or ~~Designee~~ **Shoreline Department** may request whatever information as may be necessary to determine the extent and nature of the activities prior to approving such activity. Such information must include the name of the property owner and/or the owner's representative. An on-site inspection with the owner, owner's representative or the individual who will be responsible for

undertaking the proposed activities of the permit may be requested by the City Manager or ~~Designee~~ **Shoreline Department**.

- C. The City Manager or ~~Designee~~ **Shoreline Department** will determine the expiration date of the permit depending on the nature of the activity, but under no circumstance will the permit be applicable for greater than six (6) months from the original date of permit approval.
- D. In the event that the City Manager or ~~Designee~~ **Shoreline Department** denies an applicant's request, the applicant may appeal the decision to the ~~Beach and Dune~~ **Shoreline** Task Force. In so doing, the applicant will need to submit to ~~Town~~-**City** staff a copy of all information necessary to completely understand the nature of the situation for submission to the Task Force. The Task Force can then make a recommendation that will be forwarded to the ~~Board of Aldermen~~ **City Council** for final review and approval.

Sec. 22-8.1. – Beach special events permitting.

The ~~Town~~-**City** must approve all beach special events activities prior to the commencement of such activities. The ~~Board of Aldermen~~ **City Council** or the City Manager may designate a Special Events period [length of time] and permits may be granted during such period for setting up temporary outdoor facilities both on beachfront properties and seaward of the ~~Town's~~-**City's** Historic Building Line established by the Attorney General of Texas. A Beach Special Events Permit is only valid for the specific Special Events period [length of time] and not for any other Special Events period. Each Special Events period requires a separate permit. These permits shall be granted with special conditions and requirements as the City Manager or designee may believe is necessary to preserve the public beaches and the general health and safety of the users thereof. A copy of the permit issued by the City will be forwarded to the General Land Office and the Office of the Attorney General for their files no later than five (5) days from the date the City issued

the permit. Any person desiring to set up any type of temporary facility during the Special Event period on the beach shall comply with the following:

- A. No facility or manufacture may be set up in a manner to destroy, **damage, or modify** dunes and/or vegetation.
- B. No outdoor facility or manufacture may be set up that will impair public access to the beach or use of the public beach.
- C. Any applicant obtaining Special Event permit will provide whatever sanitary facilities that the ~~Town~~ **City** believes are reasonably necessary as a result of the number of people being attracted to the Special Event Activities.
- D. The permit will specifically describe the facilities being set up and what will be left in place overnight and shall comply with all requirements of the Building Department that pertain to safe installations. Any application for permit must either be signed by the beachfront property owner or have a letter of consent from the beachfront property owner for the applicant seeking the permit.
- E. No sales of any nature may take place on the beach (seaward of the Historic Building Line).

Sec. 22-8.2. – Retaining wall/walkway maintenance.

All retaining wall/walkway maintenance activities must be approved by the ~~Town~~ **City** prior to undertaking such maintenance activities.

- A. The City Manager or ~~Designee~~ **Shoreline Department** may require modifications to the retaining wall/walkway maintenance activities to ensure that such activities do not damage dunes and/or dune vegetation.
- B. If the City Manager or ~~Designee~~ Shoreline Department issues a permit for retaining wall/walkway maintenance activities, any and all sand that will be moved and/or removed from the designated walkways and/or retaining walls must be used to establish and/or enhance the foredune line and**

may not be placed on top of existing or new vegetation. The City Manager or Designee Shoreline Department will work with the owner, owner's representative and/or permittee to determine the placement of the sand.

Sec. 22-8.3. – Vehicle access.

The ~~Town~~-City of South Padre Island prohibits vehicular access to the public beaches, except for public safety, emergency vehicles, beach maintenance equipment, and permitted vehicles. The City Manager or ~~Designee~~ Shoreline Department may permit vehicle access to the beach in coordination with permitted construction and/or property maintenance activities; however, a separate Vehicle Access (Beach Use) Permit and fee will be required.

Sec. 22-8.4. – Property maintenance.

The ~~Town~~-City must approve all property maintenance activities east of the Dune Protection line prior to undertaking such activities. If the City Manager or ~~Designee~~ Shoreline Department determines that the activity conforms to the requirements as set forth in Section 22-8 above, then the City Manager or ~~Designee~~ Shoreline Department may issue a permit for the property maintenance activities. The City Manager or ~~Designee~~ Shoreline Department may require modifications to the property maintenance activities to ensure that such activities conform to the requirements.

Sec. 22-9. – ~~Town~~-City sponsored dune ridge construction permits.

A. The ~~Town~~-City endorses the concept of ~~Town~~-City -sponsored activities to alter existing dune shape and size where a complete dune ridge construction plan has been reviewed and approved by the ~~Town~~-City. In the event that a specific property owner wishes to alter dunes seaward of their retaining wall, that property owner may present a plan to ~~Town~~-City staff that includes the pertinent items and information as necessary to completely understand and review the application. Once complete, staff

will forward the plan to the ~~Beach and Dune~~ Shoreline Task Force, who will in turn provide a recommendation to the ~~Board of Aldermen~~ City Council for review and consideration. The ~~Board of Aldermen~~ City Council will determine if the ~~Town~~ City wishes to approve and sponsor such activity.

- B. The ~~Town~~ City may approve and/or sponsor dune ridge construction activities only if it finds as a fact, after a full investigation, that the particular project as proposed, meets the criteria below. Failure to meet any one of these criteria will result in a finding of material weakening or material damage and the ~~Town~~ City shall not approve the application for the dune ridge construction activity as proposed.
1. The height of the existing dune(s) is/are greater than fifteen feet (15') above sea level;
 2. An affirmative demonstration can be made that substantial dunes would likely form naturally in the area of the proposed dune ridge construction project;
 3. The project demonstrates equal or better protection with the proposed dune ridge construction plan;
 4. The adjacent littoral property owner(s) provide written consent for the proposed dune ridge construction project;
 5. The adjacent littoral property is in compliance with previously issued and approved Beach and Dune permits;
 6. The ~~Town~~ City shall ensure that all sand seaward of the Historic Building Line (or in the case of Lots 1, 2, 3 & 4 of Block 156, PB X, seaward of the retaining wall) remains in the beach/dune system;
 7. The height of the altered dunes seaward of the Historic Building Line (or in the case of Lots 1, 2, 3 & 4 of Block 156, PB X, seaward of the retaining wall) can be no lower than ten feet (10') above sea level;
 8. The altered dune(s) must be vegetated with indigenous dune vegetation and watered to stabilize the dune(s); and

9. The project shall not restrict or interfere with the public's access to the beach or use of the beach at normal high tide.

- C. If the ~~Board of Aldermen~~ **City Council** approve and sponsor such activity, the ~~Town~~ **City** will forward the plan, with appropriate and pertinent information and the expected time frame from beginning of the project to completion, to the General Land Office and the Office of the Attorney General for their review and approval. These state agencies shall have fifteen (15) working days from receipt of the proposed dune ridge construction application to review, and provide comments to the City.

Sec. 22-10. – Beach and dune protection permits.

For all other construction activities east of the Dune Protection Line, or any activity that impacts dunes and/or dune vegetation within the Dune Protection area not already addressed by the permits mentioned in the preceding Sections, an application for a Beach and Dune Protection permit will be required.

- A. Staff will review any submitted application within a minimum of ten (10) working days to determine its completeness. A Beach and Dune application shall contain the items and information set forth in 31 TAC §15.3(s)(4). [18 Tex Reg. 661, starting at 696]
- B. If the Beach and Dune application is determined to be complete, the staff shall forward the application and the development plan to the General Land Office and the Attorney General no less than ten (10) working days prior to acting on the development plan. The General Land office and the Attorney General may submit comments on the proposed construction to the ~~Town~~ **City** of South Padre Island.
- C. After reviewing the application for completeness, the City Manager or ~~Designee~~ **Shoreline Department** shall forward the application to the ~~Beach and Dune~~ **Shoreline** Task Force. The Task Force shall review the application and make recommendations to the ~~Board of Aldermen~~ **City Council** on all Beach and Dune Protection Permit requests. The Task Force shall have up to six (6) weeks to review permit applications and forward a recommendation to the ~~Board of Aldermen~~ **City Council**. The ~~Board~~

~~of Aldermen~~ **City Council** shall grant or deny a permit within four (4) weeks of receiving a recommendation from the Task Force. The ~~Board of Aldermen~~ **City Council** may make modifications to and/or overturn a recommendation of the Task Force with a majority vote of the ~~Board of Aldermen~~ **City Council**.

- D. The ~~Town~~ **City** may approve a permit application only if it finds as a fact, after a full investigation that the particular conduct proposed will not materially weaken any dune or materially damage dune vegetation or reduce the effectiveness of any dune as a means of protection against erosion and high wind and water. In making the finding as to whether such material weakening or material damage will occur, the ~~Town~~ **City** shall use the following technical standards. Failure to meet any one of these standards which is not adequately mitigated as provided for herein will result in a finding of material weakening or material damage and the ~~Town~~ **City** shall not approve the application for the construction as proposed.
1. The activity shall not result in the potential for increased flood damage to the proposed construction site or adjacent property.
 2. The activity shall not result in runoff or drainage patterns that aggravate erosion on or off the site.
 3. The activity shall not result in significant changes to dune hydrology.
 4. The activity shall not disturb unique flora or fauna or result in adverse effects on dune complexes or dune vegetation.
 5. The activity shall not significantly increase the potential for washovers or blowouts to occur.
- E. The ~~Town~~ **City** shall consider the following items and information when determining whether to grant a permit:
1. All comments submitted to the ~~Town~~ **City** by the General Land Office and the Office of the Attorney General;

2. Cumulative and indirect effects of the proposed construction on all dunes and dune vegetation within critical dune areas or seaward of a dune protection line;
3. Cumulative and indirect effects of other activities on dunes and dune vegetation located on the proposed construction site;
4. The pre-construction type, height, width, slope, volume, and continuity of the dunes, the pre-construction condition of the dunes, the type of dune vegetation, and percent of vegetation cover on the site;
5. The local historic erosion rate as determined by the University of Texas at Austin, Bureau of Economic Geology, and whether the proposed construction may alter dunes and dune vegetation in a manner that may aggravate erosion;
6. The applicant's mitigation plan for any unavoidable adverse effects on dunes and dune vegetation and the effectiveness, feasibility, and desirability of any proposed dune reconstruction and revegetation;
7. The impacts on the natural drainage patterns of the site and adjacent property;
8. Any significant environmental features of the potentially affected dunes and dune vegetation such as their value and function as floral or fauna habitat or any other benefits the dune and dune vegetation provide to other natural resources;
9. Wind and storm patterns including a history of washover patterns;
10. Location of the site on the flood insurance rate map;
11. Success rates of dune stabilization projects in the area.
12. Mitigation: The ~~Town~~ City shall strive to balance the objective of dune protection and preservation while recognizing a property owner's right to reasonable development of private property. The permit application review process shall consider mitigation proposals or options to reduce the disturbance and/or loss of dune(s) if the property owner/applicant can demonstrate that all

reasonable efforts to avoid the disturbance and/or loss of dune(s) are impractical. It is recognized and established that the primary focus of dune protection is to protect the foredune area while at the same time desiring to afford reasonable protection of all dunes east of the Dune Protection Line. The mitigation sequence shall be used as a decision-making basis for granting Beach and Dune Protection Permits. Mitigation is an acceptable method to ensure the continued stability of the beach. It does allow for the construction of hard structures and surfaces within the permitted area so long as at no time will the structures come in routine contact with wave action. The removal of sand from permitted areas adjacent to dunes and replenishing the beach system is specifically provided for and encouraged. If a sand dune on a lot needs to be moved or leveled for construction, it must be moved and re-constructed east of the Historic Building Line (or in the case of Lots 1, 2, 3 & 4 of Block 156, PB X, seaward of the retaining wall). The mitigation sequence consists of the following steps:

- a. Avoid damage to dunes, including man-made alteration of dunes or the beach profile, removal or destruction of vegetation, and removal of sand from the dunes. Permits allowing damage to dunes shall only be issued where there is no practicable alternative to the proposed activity, proposed site, or proposed methods for conducting the activity.
- b. Minimize damage to dunes. If an application for a Beach and Dune Protection permit or beachfront construction certification proves to the City that damage to dunes and/or dune vegetation is unavoidable, a permit allowing the unavoidable damage may be issued provided that there is a permit condition requiring that the damage shall be minimized to the greatest extent practicable.
- c. Compensate for all damage to dunes. Unavoidable damage to dunes and dune vegetation shall be compensated for by the creation of new dunes, the enhancement of existing dunes, and/or the repair of the damaged dunes as well as the planting of indigenous vegetation. The

new, enhanced, and/or repaired dunes shall strive to be superior or equal to the damaged dunes in their ability to protect the community from potential flood damage, to support indigenous flora and fauna, and to protect the adjacent beach from erosion. The creation of new dunes as described by Dr. Morton in front of hard structures shall be 10 feet to 12 feet (above sea level) and 75 feet to 100 feet in width or consistent with a plan approved by the ~~Town~~ **City** of South Padre Island. A property owner may be authorized to use plants other than native plants to enhance the stability of newly created dunes.

- d. Compensation efforts shall be continuous and concurrent with the construction until the new, enhanced and/or repaired dunes and dune vegetation is equal or superior to the damaged dune and dune vegetation. However, in no event shall the compensation process take more than two years. After two years, the permittee shall be liable for penalties if compensation is incomplete, unless natural causes have prevented the same.

- F. Unless otherwise specified within the permit and approved by the ~~Board of Aldermen~~ **City Council**, Beach and Dune Protection Permits expire after two (2) years, at which time the applicant will need to reapply if the activity has not been completed.

Sec. 22-10.1. – Beach and dune protection permitting process.

Any applicant for a Beach and Dune Protection Permit shall be subject to the following review requirements to determine if said activities affect adversely public access to and use of the public beach, and no permit shall be issued unless all of the review requirements have been met;

- A. The ~~Town~~ **City** shall review the proposed development plan and the General Land Office's comments and the Attorney General's comments or other information it considers useful to determine consistency with the Beach Access and Use Plan.

- B. Any development of property seaward of the Dune Protection line, including but not limited to areas adjoining a designated beach access area, must demonstrate that such development shall not interfere with and/or diminish public beach access, public beach use and/or public parking.
- C. If the proposed construction is recommended to be permitted by the ~~Town~~ **City** of South Padre Island, the application shall also be reviewed for the compliance with the Beach Access and Use Plan and if the proposed activity will affect adversely public access to and use of the public beach.
- D. The ~~Town~~ **City** of South Padre Island, after considering all appropriate information, shall make the determination and shall certify that the construction as proposed either is consistent or inconsistent with the Beach Access and Use Plan, in which case the City of South Padre Island must specify how the construction is inconsistent with the Plan or how it will affect adversely public access to, and use of, the public beach.
- E. The ~~Town~~ **City** of South Padre Island may include in the permit any reasonable terms and conditions it finds necessary to assure adequate public beach access and use rights consistent with Chapter 61 of the Texas Natural Resources Code. If the proposed activity will impair existing beach access, then the applicant must provide equivalent or better access.
- F. There shall be no construction or erection of a permanent structure seaward (**east**) of the Historic Building Line as depicted on the Map on file with the ~~Public Works~~ **Shoreline** Department of the ~~Town~~ **City** of South Padre Island, except for that area designated in the survey labeled "Exhibit B" for Lots 1, 2, 3, & 4 of Block 156 Padre Beach Subdivision, Section X.

Sec. 22-11. – Compliance with other laws.

- A. Permits may not be issued if the proposed activity is determined to be in violation of Chapters 61 and/or 63 of the Natural Resources Code or any other state, local and federal laws related to the requirements of the Dune Protection Act and Open Beaches Act.

- B. Permits may not be issued if the proposed activity is determined to be in violation of the GLO beach access/dune protection rules (31 TAC §§15.1 - 15.10), except as may be authorized by the ~~Comprehensive Beach Management~~ *Dune Protection, Beach Renourishment, and Access Plan* of the ~~Town~~ **City** provided for in this Chapter.
- C. A violation of any law(s) related to the requirements of the Dune Protection Act and Open Beaches Act is a violation of this Chapter.

Sec. 22-12. – Administrative record.

- A. The ~~Town~~ **City** shall compile and maintain an administrative record which demonstrates the basis for each final decision made regarding the issuance of permits pursuant to this Chapter. The administrative record shall include copies of the following:
 - 1. All materials the ~~Town~~ **City** received from the applicant as part of or regarding the permit application.
 - 2. The transcripts, if any, or the minutes and/or tape of the ~~Town's~~ **City's** meeting(s) during which a final decision regarding the permit was made; and
 - 3. All comments received by the ~~Town~~ **City** regarding the permit, if any.
- B. The ~~Town~~ **City** shall keep the administrative record for a minimum of three years from the date of a final decision on a permit. The ~~Town~~ **City** shall send to the General Land Office or the Office of the Attorney General, upon request by either agency, a copy of those portions of the administrative record that were not originally sent to those agencies for permit application review and comment. The record must be received by the appropriate agency no later than 10 working days after the ~~Town~~ **City** receives the request. The state agency reviewing the administrative record shall notify the appropriate permittee of the request for a copy of the administrative record from the City. Upon request of the permittee, the ~~Town~~ **City** shall provide to the permittee copies of any materials in the

administrative record regarding the permit that were not submitted to the Town City by the permittee (i.e. the permit application) or given to the permittee by the Town City (i.e. the permit).

Sec. 22-13. – Building permit required.

If a permit is granted pursuant to this Chapter, the applicant must also obtain a Building permit from the Town City of South Padre Island for the proposed activity subject to compliance with all other ordinances and codes of the Town City including, but not limited to the Master Flood Hazard Prevention Ordinance. After Beach and Dune Protection and Building permits are obtained, the applicant must contact appropriate City staff for all necessary inspections. Failure to call for inspection, when necessary, may result in fines, removal, restoration, and/or remediation orders.

Sec. 22-14. – Voidable permits.

Any permit issued by the Town City under this Chapter shall be voidable under the following circumstances:

- A. The permit is inconsistent with this Chapter or with State law at the time the Permit was issued.
- B. A material change occurs after the permit is issued.
- C. A permittee fails to disclose any material fact in the application.
- D. The Town City shall require that a permittee apply for a new permit in the event of any material changes. Material changes include human or natural conditions that have adversely affected dunes, dune vegetation, or beach access and use that either:
 - 1. Did not exist at the time the permittee prepared the original permit application; or
 - 2. Were not considered by the Town City making the permitting decision because the permittee failed to provide information regarding the site condition in the original application for a permit.

- E. A permit automatically terminates in the event the construction comes to lie within the boundaries of the public beach by artificial means or by action of storm, wind, water, or other naturally influenced causes. Nothing in the permit shall be construed to authorize the construction, repair, or maintenance of any construction within the boundaries of the public beach at any time.

Sec. 22-15. – Beach access and use plan.

- A. The ~~Town~~ City of South Padre Island shall utilize all dedicated street right-of-ways abutting the Gulf of Mexico for public beach access. The ~~Town~~ City shall endeavor to enhance public beach access through the utilization of twenty-four (24) street cul-de-sacs along the ~~Town~~ City beaches, and through the dedication of private land and/or the acquisition of private land for purposes of providing public beach access. The ~~Board of Aldermen~~ City Council may provide through the course of budgeting the ~~Town's~~ City's financial resources, funds to improve and/or enhance public beach access points or public recreational facilities. The ~~Town~~ City may build or require dune walkovers for beach access whenever practicable.
- B. ~~The Town's Beach Access plan is contained in the Town's comprehensive beach management plan: The Town of South Padre Island's Dune protection, Beach Access, and Beach Renourishment Plan.~~ *The Dune Protection, Beach Renourishment, and Beach Access Plan and Implementing Provisions are contained in the City's Beach Access and Use Plan on file with the Texas General Land Office.*

Sec. 22-15.1. – Signage.

The ~~Town~~ City of South Padre Island shall provide beach access signs and will adopt uniform signage requirements as may be required by any State or Federal regulations.

Sec. 22-16. – Appeal from decision of the city council.

Any person aggrieved by a decision of the ~~Board of Aldermen~~ **City Council** may present to any District Court in Cameron County, Texas a duly verified petition, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court no later than the 20th day after the day on which the ~~Board~~ **Council** renders the decision.

Sec. 22-17. – Acts prohibited.

It shall be unlawful for any person to do any of the following acts:

- A. To undertake any construction activity east of the Dune Protection Line without a Beach & Dune **Protection** Permit.
- B. To undertake any Retaining wall / Walkway maintenance activities without a permit.
- C. To violate conditions of any permit issued under this ordinance.
- D. To remove sand from the Beach system within the ~~Town~~ **City** located east of the Dune Protection line.
- E. To remove sand, dirt or earthen materials from the ~~Town~~ **City** limits unless the same is contaminated.
- F. The construction of seawalls.
- G. To violate any other provisions of this ordinance.

Sec. 22-18. – Penalties.

Any person convicted of a violation of any provision of this Chapter shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00) as provided by Sec. 21-1 of Chapter ~~22~~ **21** of the Code of Ordinances and each day that the violation continues shall be a separate violation.

Sec. 22-19 – Approval.

Pursuant to 31 TAC §15.3(o) of the General Land Office Beach/Dune Rules, which allows local governments to amend their Beach/Dune Plan in a manner consistent with the requirements of the Open Beaches Act, Dune Protection Act, and 31 TAC §§15.1-15.10 of the beach/dune rules, the ~~Town~~ **City** of South Padre Island formally submits this amended and revised *Dune Protection, Beach Access, and Beach Renourishment Plan* with attached revised local implementing provisions for review and approval.

The prior Comprehensive Beach Management Plan that addressed dune protection, beach access and beach nourishment, and which the ~~Board of Aldermen~~ **City Council** adopted by Ordinance No.161C, dated September 1994, is hereby replaced and superceded by this Dune Protection, Beach Renourishment, and Access Plan dated May 7, 2003 and is hereby approved and incorporated herein for all purposes (**Ord. No. 03-03, 5-7-2003**).

The ~~Town~~ **City** has submitted this Ordinance as amended (Chapter 22 of the Code of Ordinances of the ~~Town~~ **City** of South Padre Island) to the General Land Office and the Office of the Attorney General pursuant to Chapters 61 and 63 of the Natural Resources Code and rules enacted pursuant thereto.

**CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE
AGENDA REQUEST FORM**

MEETING DATE: February 11, 2020

NAME & TITLE: Kristina Boburka, Shoreline Director

DEPARTMENT: Shoreline Department

ITEM

Update on departmental projects.

ITEM BACKGROUND

Update on projects.

BUDGET/FINANCIAL SUMMARY

N/A

COMPREHENSIVE PLAN GOAL

Chapter III. Parks and Resources

GOAL 1: The City shall ensure protection and conservation of natural resources, such as beaches, dunes, wetlands, Laguna Madre waterfront and native flora and fauna, allowing for their sustainable use and enjoyment by future generations.

Objective 1.1 Beach and dunes shall be protected from both natural and artificial erosion.

LEGAL REVIEW

Sent to Legal:

Approved by Legal:

RECOMMENDATIONS/COMMENTS:

**CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE
AGENDA REQUEST FORM**

MEETING DATE: February 11, 2020

NAME & TITLE: Kristina Boburka, Shoreline Director

DEPARTMENT: Shoreline Department

ITEM

Discussion on working with Cameron County to potentially develop a boat ramp.

ITEM BACKGROUND

The City and County are in the very early stages of looking into the addition of the boat ramp on the north end.

BUDGET/FINANCIAL SUMMARY

N/A

COMPREHENSIVE PLAN GOAL

N/A

LEGAL REVIEW

Sent to Legal:

Approved by Legal:

RECOMMENDATIONS/COMMENTS: