

Regulation 30-15

Activities Allowed Seaward of Baseline

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SC DEPARTMENT of
**ENVIRONMENTAL
SERVICES**

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S.C. Code Sections 48-39-10 et seq.

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A. Wooden Walkways: Wooden walkways no larger in width than six feet are the only structures allowed seaward of the baseline that do not require a SCDHEC-OCRM permit. See R.30-13(O)(1).

B. Small Wooden Decks: Wooden decks seaward of the baseline require a SCDHEC-OCRM permit. These decks should be no larger than one hundred and forty-four square feet. See R.30-13(H)(2).

C. Fishing Piers:

(1) New fishing piers require a SCDHEC-OCRM permit and must be open to the public. See R.30-13(R).

(2) Those fishing piers with their associated structures including, but not limited to, bait shops, restrooms, restaurants, and arcades which existed September 21, 1989, may be rebuilt if they are constructed to the same dimensions and utilized for the same purposes and remain open to the public. In addition, those fishing piers with their associated structures which existed on September 21, 1989, that were privately owned, privately maintained, and not open to the public on this date may be rebuilt and used for the same purposes if they are constructed to the same dimensions. A SCDHEC-OCRM permit is required.

D. Golf Courses: Golf Courses require a SCDHEC-OCRM permit pursuant to the criteria set forth in R.30-13(Q).

E. Normal Landscaping: Normal landscaping requires a SCDHEC-OCRM permit pursuant to the criteria set forth in R.30-13(F).

F. Special Permits: The Department shall consider applications for special permits. Special permits are to be issued only in situations where without such a permit, the property owner would have no reasonable use of his property, or when an overriding public benefit can be demonstrated. When issuing special permits, the Department shall consider the legislative findings and policies as set forth in Sections 48-39-30, 48-39-250 and 48-39-260. Specifically, the following criteria shall serve as guidelines when issuing special permits:

(1) A structure cannot be constructed or reconstructed on a primary oceanfront dune or on the active beach, and in the event that the beach erodes so that in the future the permitted habitable structure is located on the active beach, the property owner agrees to remove the structure at his own expense.

(2) There shall be no adverse impact on the stated policies of the Beachfront Management Act, including the policies protecting the sand dunes and preservation of the dry sand beach.

(3) The granting of a special permit shall not create a situation contrary to the public health, safety or welfare.

(4) In determining whether or not a permit is contrary to the public health, safety or welfare, the Department shall consider:

(a) whether or not the proposed structure would be constructed on renourished beach;

(b) the erosion rate at the site;

(c) how soon the structure will be located on the active beach;

(d) whether or not the proposed structure meets American National Standards Institute building standards; and/or

(e) the potential cumulative effect that similar structures will have upon the beach/dune system.

(5) Necessary components of habitable structures, such as sewer lines, septic tanks and utilities, do not require separate special permits. However, decking, patios, driveways, etc., are not considered as necessary components of habitable structures and therefore these items must be shown on the permit application.

(6) Generally, the Department considers special permits only under extraordinary circumstances. Three specific areas, however, where the Department deems that special permits are more appropriate include:

(a) Habitable Structures Seaward of the Baseline: The Department may grant a special permit to construct a single-family house seaward of the baseline where such permit meets the conditions of R.30-15(F)(1)-(6) and;

(i) The house is no larger than similar structures in the general neighborhood and in no case may it be larger than 5000 square feet;

(ii) The house is no further seaward than the houses on either side unless this would preclude a house from being constructed on the lot;

(iii) The permittee agrees to remove the home when it comes on to the active beach;

(iv) The permittee agrees to such other conditions as the Department deems are appropriate to promote the policies of the Act.

(b) Pools: No new pools shall be constructed seaward of the baseline. Pools may be reconstructed, upon obtaining an OCRM permit, if they are landward of an existing functional erosion control structure or device. The Department may grant a special permit to reconstruct a pool seaward of a habitable structure where such permit meets the conditions of R.30-15(F)(1)-(6) and;

(i) There is no other location on the property suitable for construction of a pool;

(ii) The commercial viability of the project is directly related to the presence of the proposed pool;

(iii) The pool is not constructed upon the active beach and the owner agrees to remove same when it comes onto the active beach;

(iv) The project is constructed so that there are no erosion control devices built as part of the pool structure and the design meets approval of the Department;

(v) The pool is no larger than is deemed necessary by the Department;

(vi) The permittee agrees to conditions as the Department deems appropriate to promote the policies of the Act.

(c) Parking Lots and Drainage Devices: The Department may grant special permits for commercial properties for reconstruction of parking lots and drainage devices seaward of the baseline which are absolutely necessary for the economic viability of the project where such permit meets the conditions of R.30-15(F)(1)-(6) and;

(i) Special permits for parking lots can only be issued for reconstruction of parking lots no larger than existed prior to destruction;

(ii) The Department can dictate the configuration of the parking lot and drainage devices and the materials used for their construction;

(iii) Construction of parking lots and drainage devices cannot take place on active beach and must be removed once they become located on the active beach;

(iv) The Department can place such conditions upon construction of the parking lots and drainage devices so as to meet the purposes of the Act.

G. Groins. Existing groins may be reconstructed, repaired, and maintained. New groins may only be allowed on beaches that have high erosion rates with erosion threatening existing development or public parks. In addition to these requirements, new groins may be constructed and existing groins may be reconstructed only in furtherance of an on-going beach renourishment effort which meets the criteria set forth in R.30-14.G, and in accordance with the following:

(1) The applicant shall institute a monitoring program for the life of the project to measure beach profiles along the groin area and adjacent and downdrift beach areas sufficient to determine erosion/accretion rates. For the first five years of the project, the monitoring program must include, but is not necessarily limited to:

(a) establishment of new monuments;

(b) determination of the annual volume and transport of sand; and

(c) annual aerial photographs.

Subsequent monitoring requirements must be based on results from the first five-year report.

(2) Groins may only be permitted after thorough analysis demonstrates that the groin will not cause a detrimental effect on adjacent or downdrift areas. The applicant shall provide a financially binding commitment, such as a performance bond or letter of credit that is reasonably estimated to cover the cost of reconstructing or removing the groin and/or restoring the affected beach through renourishment pursuant to subsection 30-15.G(3).

(3) If the monitoring program established pursuant to subsection 30-15.G(1) shows an increased erosion rate along adjacent or downdrift beaches that is attributable to a groin, the department must require either that the groin be reconfigured so that the erosion rate on the affected beach does not exceed the pre-construction rate, that the groin be removed, and/or that the beach adversely affected by the groin be restored through renourishment.

(4) Adjacent and downdrift communities and municipalities must be notified by the department of all applications for a groin project.

(5) An adjacent or downdrift property owner that claims a groin has caused or is causing an adverse impact shall notify the department of such impact. The department shall render an initial determination within sixty (60) days of such notification. Final agency action shall be rendered within twelve months of notification. An aggrieved party may appeal the decision pursuant to the Administrative Procedures Act.

(6) In an area in which new groins have been permitted, or in an area in which existing groins have been reconstructed or repaired, access along the beach from one groin compartment to another must be maintained or improved. If access is impacted or eliminated, temporary access around or over the groin must be established immediately. Within thirty days of notification from the Department, a plan to provide permanent access around or over the groin must be submitted by the entity responsible for the groin construction. This permanent access plan must be implemented within ninety days of the Department approval.

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

H. Emergency Orders: Emergency situations before or after a storm event may prompt the Department, or an appointed official of a county or municipality or of the state to issue emergency orders under R.30-5, allowing property owners to construct temporary barriers against wave uprush. A structure is determined to be in imminent danger when the erosion comes within twenty (20) feet of that structure. If the Department determines that extenuating circumstances related to site conditions exist, the Department, at its discretion, may allow the use of emergency orders when erosion is beyond twenty (20) feet of the structure. In an effort to protect Loggerhead turtle nesting sites, emergency orders issued between April 15th and November 1st must be reviewed by the Department prior to actual performance of the activity authorized by the emergency order. The U.S. Army Corps of Engineers must be notified within seventy-two (72) hours of the issuance of an emergency order by the Department if the Department issued the emergency order. If the emergency order is issued by an appointed official such notification must be accomplished by the issuing official. The property owner or other recipient of the emergency order must obtain any additional permit(s) and agency review(s) that may be required by other local, state or federal agencies. All required permits and reviews must be obtained prior to the commencement of work pursuant to the issued emergency order. Unless otherwise approved by the Department, emergency sandbagging, sand scraping and renourishment shall be performed using the criteria established in this section. The Department may apply any requirements under this section to any Department-approved technology that is authorized under an emergency order.

(1) Emergency orders for sandbags may be issued by the Department, or upon written notification to the Department by an appointed official of a county or municipality or of the state acting to protect public health and safety. Sandbags shall only be used to construct temporary protection for existing habitable structures and critical infrastructure if the Department or appointed official determines a structure to be in imminent danger and emergency conditions conform with the definition of emergency in S.C. Code Section 48-39-10(U), or as allowed in R.30-13.Q(1). In this section, "critical infrastructure" shall mean utilities, roadways and associated infrastructure necessary to provide for public health and safety, communication, and transportation.

(2) Emergency orders for sandbags shall be subject to the following process:

(a) The Department or an appointed official of a county or municipality or of the state may issue emergency orders for areas specifically included under a state emergency declaration or at the request of a local government or property owner.

(b) Within one hundred twenty (120) days of the issuance of an emergency order for sandbags, the property owner may provide the Department with evidence that their community has a feasible and financially viable renourishment plan for the affected area that is consistent with their approved Local Comprehensive Beachfront Management Plan.

(c) If the property owner has not provided the Department with an acceptable plan for renourishment within one hundred twenty (120) days of the issuance of an emergency order for sandbags, then the

emergency order shall expire at the end of the one hundred twentieth (120th) day, and the sandbags shall be removed at the property owner's expense.

(d) If the property owner's plan is acceptable and calls for renourishment, then a renourishment permit application shall be submitted to the Department within eighteen (18) months of the issuance of the emergency order.

(i) If the Department approves the renourishment permit, sandbags shall be allowed to remain in place for up to twelve (12) months after the permit is issued to allow sufficient time for the project to be completed, but must be removed at the property owner's expense prior to the placement of renourishment sand at the property, or at the end of the twelve (12)-month period, whichever occurs first.

(ii) If the Department denies the renourishment permit application, the sandbags shall be removed within ninety (90) days of the final agency decision, including all appeals, at the property owner's expense.

(iii) If a renourishment permit application is not submitted to the Department within eighteen (18) months of the issuance of the emergency order, the emergency order shall expire at the end of the eighteenth (18th) month, and the sandbags shall be removed at the property owner's expense.

(3) To maintain the temporary nature that is intended for the use of sandbags, the following criteria shall be used when issuing emergency orders for sandbags:

(a) The bags shall be commercially manufactured for the purpose of holding sand. One year from the effective date of these regulations, applicants must provide information demonstrating that all bags are specifically manufactured for use in a coastal environment, considering factors such as resistance to saltwater corrosion, UV degradation, and durability in erosive conditions, among other appropriate factors as determined by the Department. Biodegradable bags may be required if deemed appropriate by the Department.

(b) The bags, when filled, shall be a maximum size of approximately one (1) cubic yard.

(c) The bags may be placed no farther seaward than is necessary to protect the existing habitable structure, critical infrastructure or golf course qualified under R.30-13.Q(1). In no case may sandbags be used to protect a dune. Sandbags may not retard normal shoreline movement unless used to protect an existing habitable structure, critical infrastructure or golf course qualified under R.30-13.Q(1).

(d) All sandbags are to be placed parallel to the shoreline. Excavation shall not be allowed below existing beach grade. The toe of the sandbags shall not be buried during installation. At no time shall the sandbags be buried or covered with sand from non-natural processes, including sand scraping or renourishment.

(e) Sandbags shall generally be limited to a maximum height of six (6) feet above the beach. The sandbags shall be stacked at an angle no steeper than forty-five (45) degrees.

(f) The Department may consider site specific engineering reports which will improve the effectiveness of sandbag placement for site specific situations.

(g) Sandbag fill material must be from an upland source and compatible in grain size and color with the native beach sand and should contain no more than a minimal amount of organic material. Only clean sand may be placed in the bags.

(h) The property owner is responsible for the day-to-day maintenance of the sandbags to ensure that they remain in the location authorized by the emergency order, above grade and in good repair. The Department may allow sandbags which become buried or partially buried through natural processes to remain in place for the duration of the emergency order process as outlined in R.30-15.H, provided that the coordinates and number of bags have been surveyed, and written documentation has been provided to the Department. Failure to maintain the sandbags may result in the Department requiring the removal of the sandbags at the property owner's expense.

(i) A copy of the issued emergency order shall be in the possession of anyone performing the placement of sandbags.

(4) Emergency orders for sand scraping may be issued by the Department, or upon written notification to the Department by an appointed official of a county or municipality or of the state acting to protect public health and safety. Sand scraping may be used to construct temporary protection if the Department or local official determines a structure to be in imminent danger and emergency conditions conform with the definition of emergency in S.C. Code Section 48-39-10(U). The following criteria shall be used when issuing emergency orders for sand scraping:

(a) Sand scraping may only be ordered and performed to protect existing structures. Sand scraping shall not be allowed in front of erosion control structures unless it can be proven that the erosion control structure is itself in danger of collapsing and is within ten (10) feet of the habitable structure.

(b) Sand scraping may be used to provide temporary protection for golf courses pursuant to the requirements of this subsection.

(c) Sand may only be scraped from the intertidal beach and only between extended property lines of the structure receiving the sand. The depth of scraping may not exceed one (1) foot below the existing beach level.

(d) Sand may be placed against an eroded scarp or to replace an eroded dune that is seaward of a threatened structure. The dune shall not exceed six (6) feet above grade or twenty (20) feet in width as measured from dune toe to dune toe.

(e) No sand may be placed landward of an existing, functional erosion control device.

(f) Sand scraping may be performed one (1) time only per property for each emergency order issued by the local official without prior approval by the Department.

(g) A copy of the issued emergency order shall be in the possession of anyone performing sand scraping.

(h) Sand scraping activities shall generally be accomplished through private or local funding unless a state of emergency is declared, then state funding is not precluded.

(5) Emergency orders for renourishment may be issued by the Department, or upon written notification to the Department by an appointed official of a county or municipality or of the state acting to protect public health and safety. Renourishment may be used to construct temporary protection if the Department or local official determines a structure to be in imminent danger and emergency conditions conform with the definition of emergency in S.C. Code Section 48-39-10(U). The following criteria shall be used when issuing emergency orders for renourishment:

(a) Renourishment sand must originate from an upland source and be approved by the Department as compatible in grain size and color with the native beach sand and should contain no more than a minimal amount of organic material.

(b) Sand placed on the beach must be located between the extended property lines of the property receiving the sand.

(c) Sand may be stabilized with sand fencing and beach vegetation pursuant to the permitting requirements in R.30-13.L.

(d) A copy of the issued emergency order shall be in the possession of anyone performing authorized renourishment activities.

(e) Renourishment activities conducted under an emergency order may be used to provide temporary protection for golf courses pursuant to the requirements of this subsection.

(f) Renourishment activities conducted under an emergency order shall generally be accomplished through private or local funding unless a state of emergency is declared, then state funding is not precluded.