



COASTAL RESOURCES DIVISION
ONE CONSERVATION WAY • BRUNSWICK, GA 31520 • 912.264.7218
COASTALGADNR.ORG

MARK WILLIAMS
COMMISSIONER

DOUG HAYMANS
DIRECTOR

MAR 04 2021

Thomas J. Mahoney, III
Mahoney & Cole PC
337 Commercial Drive Suite 500
Savannah, GA 31406

Re: Letter of Permission (LOP), Storage of Beach Rental Equipment and Vehicular Access in the State's Shore Protection Act (SPA) Jurisdiction, Burke's Beach Rentals, Inc., Tybee Island, Chatham County, Georgia

Dear Mr. Mahoney:

This Letter of Permission (LOP) is in response to your request on behalf of Burke's Beach Rentals, Inc. The January 25, 2021 request includes the temporary placement of storage containers and beach rental equipment at four (4) locations on Tybee Island. The locations, as approved by the City of Tybee Island between the seaward toe of the most seaward dune and landward of ordinary high water, are as follows:

- 3rd Street - not more than one hundred (100) rental chairs and one (1) 12ft. x 8ft. x 4ft. wooden storage container positioned approximately 180ft. seaward of the seaward toe of the dune and not less than 50ft. landward of the Ordinary High Water (OHW).
- Center Street - not more than one hundred (100) rental chairs and one (1) 12ft. x 8ft. x 4ft. wooden storage container positioned approximately 180ft. seaward of the seaward toe of the dune and not less than 50ft. landward of the OHW.
- 14th Street - not more than one hundred thirty (130) rental chairs and two (2) 18ft. x 14ft. x 4ft. wooden storage container positioned approximately 75ft. seaward of the seaward toe of the dune and not less than 50ft. landward of the OHW.
- 15th Street - not more than one hundred thirty (130) rental chairs and two (2) 10ft. x 15ft. x 4ft. wooden storage container positioned approximately 50ft. seaward of the seaward toe of the dune and not less than 50ft. landward of the OHW.

At the close of business each day, rental umbrellas will be secured inside each storage container and all chairs will be locked together landward of each storage container. The storage containers and all rental equipment associated with Burke's Beach Rentals, Inc. will be transported to the beach by the one-time use of a pick-up truck and trailer as approved by the City of Tybee Island.

Access to each site will occur via existing City of Tybee vehicular access points in the vicinity of each rental location. Driving on the beach will be consistent with requirements for Beach Driving as defined in OCGA 319-2-2-03. In the case of an anticipated storm event, Burke's Beach Rentals, Inc. will remove all recreational equipment and storage containers with proper advance notification to the Department. Set up will begin no sooner than 15 days after the date on this letter and be removed no later than September 30, 2021.

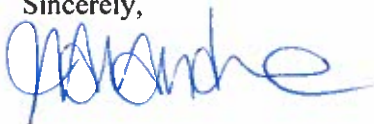
The Department authorizes the temporary placement of storage containers and rental equipment as depicted in the attached site plan dated received January 25, 2021 and has no objection to the action provided best management practices are used to prevent any additional impacts at the site and to protect jurisdictional shore areas. No vehicles are authorized on the beach in conjunction with your Beach Rental business license issued by the City of Tybee Island except as noted above. In the event that ordinary high water impacts the storage equipment locations, storage containers and beach rental equipment will be relocated based on the Department's site-specific recommendation.

Because the project occurs between May 1st and October 31st, turtle nesting season, an individual with a DNR Sea Turtle Cooperators Permit must survey the area to be used by Burke's Beach Rentals, Inc. All sea turtle nests must be avoided and no activity may occur within 20ft. of a nest area.

This LOP is not meant to exempt the above referenced activity from future environmental laws. **No unauthorized equipment, materials or debris may be placed, disposed of, or stored in jurisdictional areas.** Any incidental impacts associated with this project must be rectified by fully restoring areas to their pre-construction topographic and vegetative states. This LOP is valid for the above referenced project. Any change in the use, location, dimensions, or configuration of the approved project, without prior notification and approval from this office could result in revocation of this permission and in the required removal of the related structures. This project must comply with all other Federal, State, and local statutes, ordinances and regulations.

If you have any further questions or concerns regarding this or any other project, please feel free to contact Deb Barreiro at (912) 266.3695.

Sincerely,



Jill Andrews
Chief, Coastal Management Section

Enclosure: Project Description, Site Plans and 2021 COTI Business License, Beach Driving Rules
391-2-2-.03

cc: Carrie Burke
Burke's Beach Rentals, Inc.
P.O. Box 1787
Tybee Island, GA 31328

George Shaw
City Of Tybee Island
P.O. Box 2749
Tybee Island, GA 31328

LOP20210019



MAHONEY COLE & COURSEY^{PC}
ATTORNEYS AT LAW

January 25, 2021

CERTIFIED MAIL RETURN RECEIPT REQUESTED
Article Number: 7019 2280 0001 1131 4343

Jill Andrews
Coastal Resource Division
Marsh and Shore Management Program
One Conservation Way
Brunswick, GA 31520

Re: Burke's Beach Rentals, Inc.
Request for Letter of Permission and
Application for Beach Driving Authorization

Dear Mr. Labarba:

Our firm represents Burke's Beach Rentals, Inc., in seeking a Letter of Permission and Beach Driving Authorization through the Department of Natural Resources for a seasonal business at Tybee Island, Georgia, that rents umbrellas, chairs and other beach equipment from April 1 to September 30 of each year. We submit these requests pursuant to the Shoreline Protection Act and Consent Order SPA-2015-004. At your direction these requests include revised site diagrams.

The enclosed letter from the City of Tybee Island together with the enclosed Occupational Tax Certificates confirm that the City of Tybee Island grants its permission for this seasonal business to operate on the beach. The business is permitted to operate from four locations on Tybee – 3rd Street, Center Street, 14th Street and 15th Street. Boxes will be stored landward of the OHWM and will be used at each location to store umbrellas, beach chairs and lounge chairs. At the close of each day's business, the umbrellas will be locked inside the box and the various chairs will be locked to the box itself.

We request the Department to grant a Letter of Permission for these four locations as follows:

- 3rd Street – not more than one hundred (100) rental chairs and one (1) 12ft x 8ft. 4ft. wooden storage container positioned approximately 180ft. seaward of the seaward toe of the dune and not less than 50ft. landward of the OHWM.
- Center Street - not more than one hundred (100) rental chairs and one (1) 12ft x 8ft. 4ft. wooden storage container positioned approximately 180ft. seaward of the seaward toe of the dune and not less than 50ft. landward of the OHWM.

- 14th Street - not more than one hundred thirty (130) rental chairs and two (2) 18ft x 14ft. 4ft. wooden storage container positioned approximately 75ft. seaward of the seaward toe of the dune and not less than 50ft. landward of the OHWM.
- 15th Street - not more than one hundred thirty (130) rental chairs and two (2) 10ft x 15ft. 4ft. wooden storage container positioned approximately 50ft. seaward of the seaward toe of the dune and not less than 50ft. landward of the OHWM.

These locations are shown on the enclosed revised site diagrams. Noted at each location are the dimensions of each box or stand and the measurements from the sand dunes and high tide line of the ocean together with longitudes and latitudes. Please note that one box with chairs is placed at 3rd Street and Center Street, and two boxes with chairs are at the 14th Street and 15th Street locations.

These proposed sites are relocated to reflect the Departments erosion concerns. We request to return to previously authorized sites once these erosion concerns are abated.

We respectfully request the Department to issue its Letter of Permission authorizing Burke's Beach Rentals, Inc., to conduct the seasonal business on the beach as described in the above referenced documents. Please let me know whether the Department needs any additional details or documentation to consider this request.

Additionally, we submit the enclosed Application for Beach Driving Authorization to enable the delivery and removal of the boxes and rental equipment at each location. Burke's Beach Rentals, Inc., seeks authorization to drive on the hard, wet sand from the nearest vehicular access to the approved locations once during the spring, once during the fall and with advance notice in the event of a declared storm. All locations are subject to change due to turtle nesting and/or dune renourishment.

We respectfully request the Department to issue its Letter of Permission and to grant Beach Driving Authorization to Burke's Beach Rentals, Inc., as outlined in this letter and the attached documents. Please let me know whether the Department needs any additional details or documentation to consider these requests.

Sincerely,



Thomas J. Mahoney III

TJM/Imf
Enclosures

cc Mr. James G. Burke, Jr.
Ms. Carrie Burke – c.burke64@yahoo.com
Buck.Bennett@gadnr.org
Deb.Barreirow@dnr.ga.gov

MAYOR
Shirley Sessions

CITY COUNCIL
Barry Brown
John Braunig
Jay Burke
Nancy DeVetter
Michael "Spec" Hosti
Monty Parks



CITY MANAGER
Shawn Gillen

CITY CLERK
Janet LeViner

CITY ATTORNEY
Edward M. Hughes

CITY OF TYBEE ISLAND

January 11, 2021

Jill Andrews
Coastal Resource Division
One Conservation Way
Brunswick, Georgia 31520

RE: Burke's Beach Rentals Inc. Request for GDNR Permission for the operation of Beach Rentals on Tybee Island

Dear Ms. Andrews,

Please accept this confirmation by the City of Tybee Island that Burke's Beach Rentals Inc. has a current business license to operate a beach rental company at the following locations:

- 1) Burke's Beach Rental
 - a) #1-Third Street
 - b) #2-Center Street
 - c) #3-14th Street
 - d) #4-15th Street

The operations of said beach rentals include the storage of equipment on the beach at those locations during the beach equipment rental season.

Below is the Tybee Island code section that the business is operating:

ARTICLE III. - BEACH EQUIPMENT RENTAL

FOOTNOTE(S):

— (1) —

Editor's note— Ord. No. 30-2011, adopted Sept. 8, 2011, amended former Art. III, §§ 34-82—34-89, in its entirety. Former Art. III pertained to similar subject matter and derived from the Code of 1983.

Sec. 34-82. - License—Issued subject to regulations.

All licenses issued authorizing the holder to engage in the business of umbrellas and chairs shall be considered issued subject to the provisions of this article.

(Code 1970, § 11-19; Code 1983, § 9-3-31; Ord. No. 30-2011, § 9-8-2011)

Sec. 34-83. - Same—Filing and approval of application; renewals; request for proposals; and lines of business.

All persons applying for a license provided for in section 34-82 shall first file an application with the city requesting a license and the application shall be investigated by the city manager. A license may only be issued as to locations specified in section 34-85 and such license shall only be authority for operation of the specific business activity to be conducted and listed on the license or an attachment thereto. Existing prior license holders at locations specified herein shall be entitled to annual renewal licenses at the same locations as long as the application is renewed and paid for timely. In the event an existing or prior license holder shall fail to renew at a location, the license shall not be renewed or issued except upon a new application.

(Code 1970, § 11-20; Code 1983, § 9-3-32; Ord. No. 30-2011, § 9-8-2011)

Sec. 34-84. - Same—Payment fee.

The license/regulatory fee for the renting of umbrellas and chairs for use by the public, for each fiscal year shall be payable on or before commencing of any business; however, in order to properly renew a license for an existing location, the fee must be paid prior to April 1 of the renewal year.

(Code 1970, § 11-21; Code 1983, § 9-3-33; Ord. No. 30-2011, § 9-8-2011)

Sec. 34-85. - Business site locations; parking area.

(a) Each approved business site which shall be located on the sand shall consist of no more than 30 linear feet (900 square feet) in which merchandise for use on the beach for rent will be displayed. (No such business operation will be allowed to be located at the end of any alleys, lanes, or unopened streets or rights-of-way.) The following locations for any such business are approved by the mayor and council and will be located at the end of the following streets or lots only and no other locations shall be permissible without the approval of the mayor and council:

- (1) North Beach parking lot, at the middle dune crossover.**
- (2) Third Street.**
- (3) Center Street.**
- (4) Fourteenth Street.**
- (5) Fifteenth Street.**
- (6) Tybrisa Street.**
- (7) Seventeenth Street.**
- (8) Eighteenth Street.**
- (9) Nineteenth Street.**

(b) Any license so issued shall allow the holder thereof the right to operate its business from the end of the above streets or crossovers extending in generally north and south directions half the distance along the beach toward the next street, it being the intent hereof that a license issued will allow the holder thereof to display merchandise within the 900 square feet area, but to allow such license holder to rent from said location northwardly and southwardly from said location in the direction of the street adjacent to the licensed location and running halfway toward the next northern and southern streets.

(c) In addition to the beach site location, each business shall include one parking place for a mobile storage unit displaying a current state license tag and a city parking decal and legally parked in a designated parking space.

(d) Licenses hereunder shall not be transferable nor may a location or license be sublet.

(e) All authorized operations must comply with all regulations required by the Department of Natural Resources and secure any and all necessary permits or letters of permission, if any, required by the Department of Natural Resources.

(Code 1983, § 9-3-34; Ord. of 8-9-2007(2); Ord. No. 08-2011, 4-14-11; Ord. No. 30-2011, § 9-8-2011)

It is a pleasure to work in partnership with our GDNR. If you have any questions or need additional information, please feel free to contact me at sgillen@cityoftybee.org

Sincerely,


Shawn Gillen
City Manager

CC: Shirley Sessions, Mayor
Edward Hughes, Attorney
James Burke, Jr. – Burke's Beach Rentals Inc.

P.O. Box 2749 – 403 Butler Avenue, Tybee Island, Georgia 31328-2749
(866) 786-4573 – FAX (866) 786-5737
www.cityoftybee.org



**CITY OF TYBEE ISLAND
OCCUPATIONAL TAX CERTIFICATE**

**BURKES'S BEACH RENTALS #1
JAMES BURKE
PO BOX 1787
TYBEE ISLAND GA 31328**

Business Location: 3RD

Certificate #: 215

Date Issued: 1/11/2021

9924	BCH EOPT/WTR CRFT RTL-PER SITE
1000	OCCUPATIONAL TAX
9999	ADMINISTRATION FEE

This Certificate must be displayed in a conspicuous place in your business establishment. Tybee Island City Hall must be notified of any change in status. This Certificate is Non-Transferable and is subject to being revoked if abused. This Certificate expires on
12/31/2021

**George Shaw
Assistant City Manager
Zoning and Community Development**



**CITY OF TYBEE ISLAND
OCCUPATIONAL TAX CERTIFICATE**

**BURKE'S BEACH RENTALS #2
JAMES BURKE
PO BOX 1787
TYBEE ISLAND GA 31328**

Business Location: CENTER

**Certificate #: 02282
Date Issued: 1/11/2021**

9924	BCH EQPT/WTR CRFT RTL-PER SITE
1000	OCCUPATIONAL TAX
9999	ADMINISTRATION FEE

This Certificate must be displayed in a conspicuous place in your business establishment. Tybee Island City Hall must be notified of any change in status. This Certificate is Non-Transferable and is subject to being revoked if abused. This Certificate expires on
12/31/2021

**George Shaw
Assistant City Manager
Zoning and Community Development**



**CITY OF TYBEE ISLAND
OCCUPATIONAL TAX CERTIFICATE**

**BURKE'S BEACH RENTALS #3
JAMES BURKE
PO BOX 1787
TYBEE ISLAND GA 31328**

Business Location: 14TH

Certificate #: 02283

Date Issued: 1/11/2021

9924
1000
9999

**BCH EQPT/WTR CRFT RTL-PER SITE
OCCUPATIONAL TAX
ADMINISTRATION FEE**

**This Certificate must be displayed in a conspicuous place in your
business establishment. Tybee Island City Hall must be notified of
any change in status. This Certificate is Non-Transferable and is
subject to being revoked if abused. This Certificate expires on**

12/31/2021

**George Shaw
Assistant City Manager
Zoning and Community Development**



**CITY OF TYBEE ISLAND
OCCUPATIONAL TAX CERTIFICATE**

**BURKE'S BEACH RENTALS #4
JAMES BURKE
PO BOX 1787
TYBEE ISLAND GA 31328**

Business Location: 15TH

Certificate #: 02284

Date Issued: 1/11/2021

9924
1000
9999

**BCH EQPT/WTR CRFT RTL-PER SITE
OCCUPATIONAL TAX
ADMINISTRATION FEE**

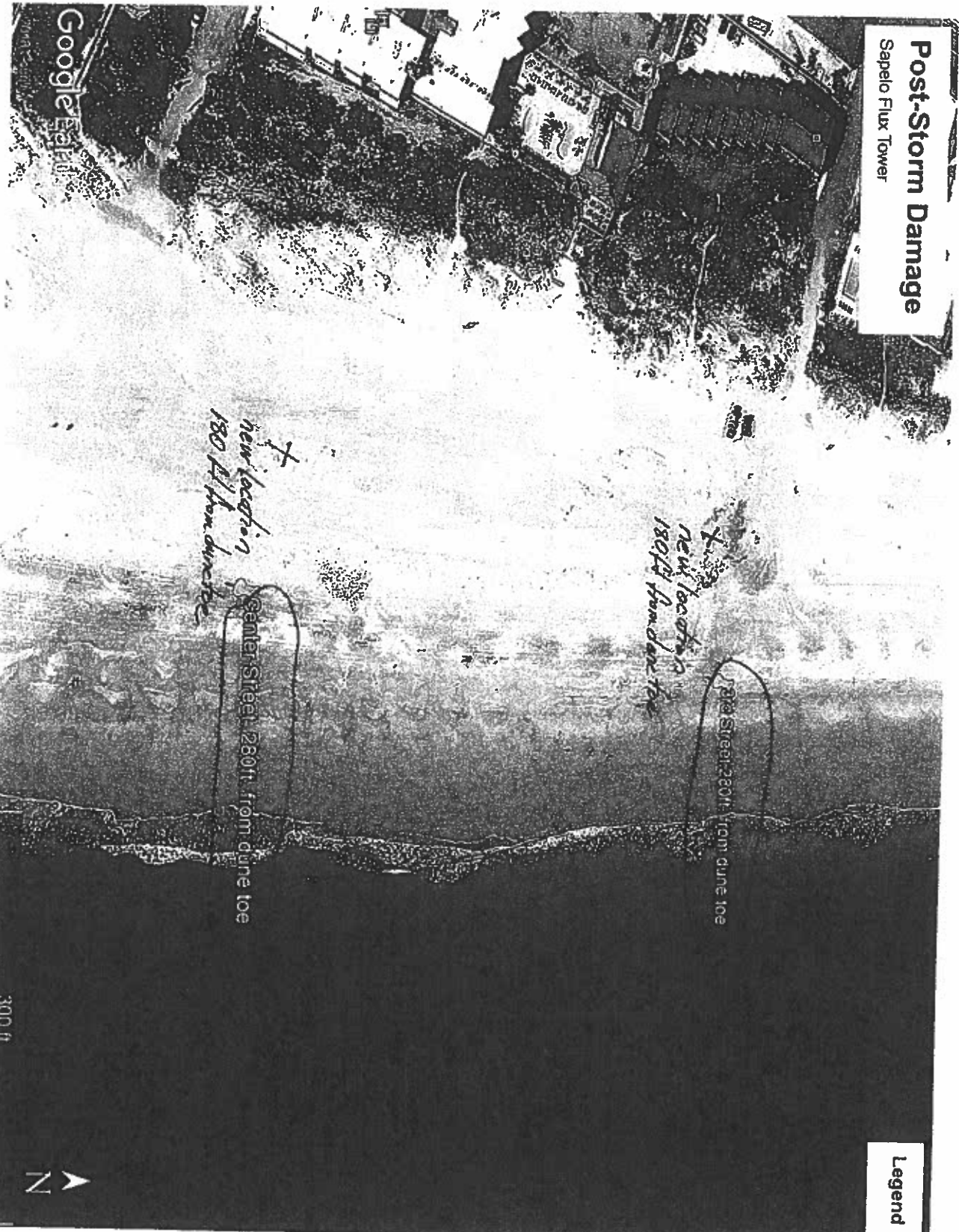
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12/31/2021

**George Shaw
Assistant City Manager
Zoning and Community Development**

Post-Storm Damage

Sapelo Flux Tower

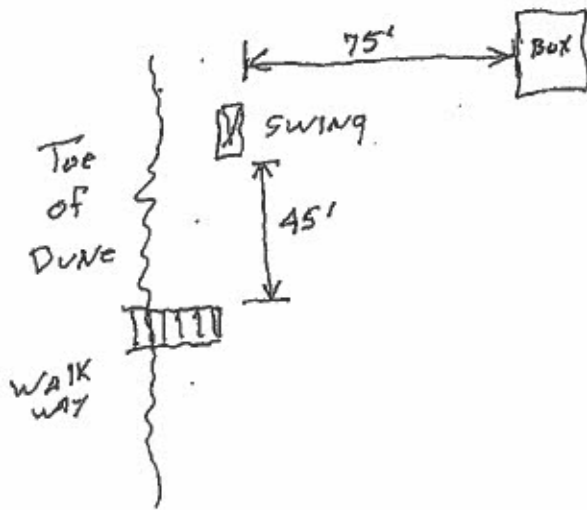


300 ft

Legend

Google Earth

Google Maps 14th St

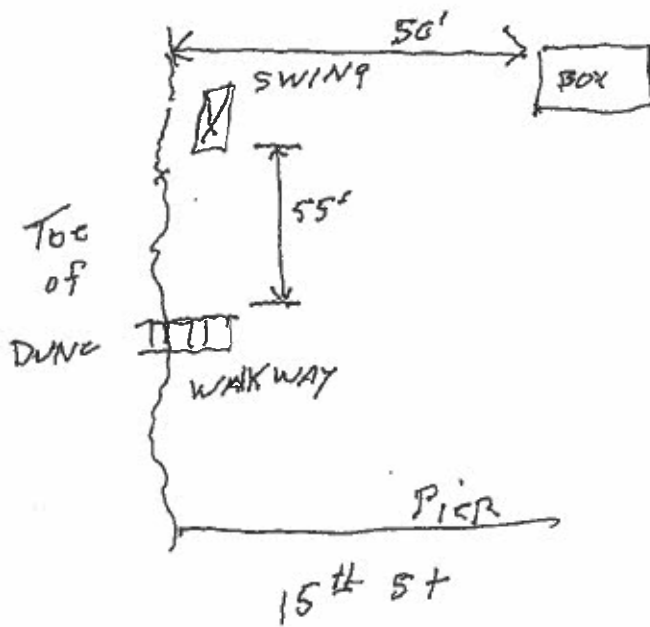


14th St

Google Maps  15th



Imagery ©2019 Google, Map data ©2019 Google 50 ft



**RULES
OF
GEORGIA DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION**

CHAPTER 391-2-2

SHORE PROTECTION

TABLE OF CONTENTS

391-2-2-.03 Beach Driving Authorizations.

391-2-2-.03 Beach Driving Authorizations.

(1) **Purpose.** The purpose of these Rules is to implement the authority of the Board of Natural Resources to promulgate rules and regulations to establish criteria under which the Shore Protection Committee may issue authorizations to drive motor vehicles on Georgia dynamic dune field and beaches consistent with the purposes of the Shore Protection Act.

(2) **Definitions used in this rule.**

(a) "Wet Sand Beach" means the area below the high tide line that is covered with water when the tide is high during an average high tide. The wet sand beach does not include the area where the dry sand is covered with water during a spring or otherwise exceptionally high tide.

(b) "Own or have an interest in real property" means to hold fee simple title, to have a life estate or other retained right, or to have a bona fide leasehold interest (other than a usufruct) for a term of one year or more, individually or as a partner or tenant in common.

in and to a parcel of land. Own or have an interest in real property shall not include holding a rental agreement, license, or other right to use real property which does not constitute an interest in real property; in addition, such term does not include holding an easement over or across a tract of land. After the effective date of this section of this rule, such term shall not include newly-created undivided interests smaller than one-fifth except if created by inheritance or devise.

(3) Authorizations.

(a) Authorizations to operate motor vehicles on, over, or across the dynamic dune field or beaches, as provided by O.C.G.A. 12-5-248, shall be in accordance with the following criteria.

1. Authorizations may be issued only to those persons who have demonstrated to the satisfaction of the Shore Protection Committee that they meet one or more of the following criteria which justify driving on the beach when the Committee has determined that the proposed driving on the beach is not inconsistent with the public interest:

(i) are engaged in bona fide educational activities or scientific research as such activities are defined in O.C.G.A. Section 27-1-2 (24) and (62), or other bona fide educational activities or scientific research, and that require beach driving;

(ii) are a legal resident or full-time resident on the island for which the authorization is requested;

(iii) are involved in beach maintenance or security which makes driving a vehicle necessary;

(iv) own or have an interest in real property on the island in question, or are the spouses, parents, children, grandchildren and other lineal descendants (and their spouses) of such individuals.

2. Authorizations will be valid for five (5) years from the date of issuance.

3. Authorizations are non-transferable.

4. Authorizations will be barrier island specific.

5. Authorizations are issued to persons only, except as provided in paragraph 11 of this section, which covers General Authorizations provisions of the rules.

6. Authorizations will be issued only to persons with valid driver's licenses from the State of Georgia or other state, nation, or territory, and authorizations must be in possession of the person to whom the authorization was issued when that person is engaged in beach driving.

7. Beach driving during the period May 1 to October 31 shall be restricted to daylight hours (1/2 hour before sunrise to 1/2 hour after sunset), except that authorizations allowing beach driving at night during such time period only for the purposes of scientific research, predator control, educational activities, or law enforcement may be issued to persons engaged in such activities.

8. Driving shall be permitted only on the wet sand beach, except and to the extent necessary to drive around a slough or other impassable area on the beach. Access to the wet sand beach shall be from access points as set forth in Appendix A, or from other Department-approved access routes from the upland.

9. Drivers shall minimize any disturbance of shorebirds, turtles or other wildlife and shall avoid disturbance altogether if possible.

10. Drivers receiving authorizations will be required to limit their speed to a maximum of 25 mph from August 1 through March 31 and 20 mph from April 1 through July 31, except in the case of an emergency. Nothing in these rules shall supersede any lower speed limit established on any barrier island.

11. General Authorizations: The Shore Protection Committee may grant a general beach driving authorization to a governmental entity or island manager which will cover all those persons who possess a valid driver's license and are under their employ or supervision and who are engaged in bona fide research, beach cleanup, law enforcement, animal control, resource management or beach maintenance activities during the time they are engaged in these activities. In this instance, individual authorizations will not be required provided the government entity or island manager submits to the Shore Protection Committee, and revises from time to time as appropriate, a list of the names of those individuals who will be covered by a general authorization.

12. Applications: Applications for beach driving authorization shall be made on forms provided by the Shore Protection Committee whose address is One Conservation Way, Brunswick, GA 31520-8687.

13. Revocation of Authorization: The Shore Protection Committee may revoke any authorization issued for failure to comply with these rules and regulations or any other rules and regulations promulgated under O.C.G.A. Title 12 Conservation and Natural Resources or Title 27 Game and Fish.

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14. Authorizations to drive on a beach shall not be required during a medical, life-saving, or other emergency.

15. Nothing in these rules shall supersede any ordinances which further restrict driving on the beach.

16. Any person who is aggrieved or adversely affected by any order or action of the Shore Protection Committee may appeal as provided in O.C.G.A. 12-5-244.

APPENDIX A

EXISTING BEACH ACCESS SITES FOR
MOTOR VEHICLES ON ALL BARRIER ISLANDS

- Tybee Island – 8 sites:
1. 32.026074, -80.85440
 2. 32.020677, -80.841897
 3. 32.009207, -80.840885
 4. 32.007381, -80.841133
 5. 31.988713, -80.847710
 6. 31.987458, -80.848989
 7. 31.989780, -80.852916
 8. 31.993685, -80.853925
- Wassaw Island – 8 sites:
1. 31.988687, -80.847676
 2. 31.009243, -80.840786
 3. 31.885429, -80.961886
 4. 31.871877, -80.978499
 5. 31.868440, -80.982223
 6. 31.865409, -80.985146
 7. 31.860399, -80.989749
 8. 31.862197, -81.002351
- Ossabaw Island – 3 sites:
1. 31.792999, -81.053320
 2. 31.785600, -81.059209
 3. 31.726108, -81.127790
- St. Catherines Island – 2 sites:
1. 31.574974, -81.159849
 2. 31.596356, -81.14977
- Blackbeard Island – 2 sites:
1. 31.536435, -81.202928
 2. 31.480794, -81.202232
- Sapelo Island – 2 sites:
1. 31.431524, -81.238369
 2. 31.405821, -81.257556
- Little St. Simons Island – 4 sites:
1. 31.260636, -81.273294
 2. 31.249341, -81.277909
 3. 31.240672, -81.285103
 4. 31.228378, -81.314572
- Sea Island – 3 sites:
1. 31.204002, -81.322251
 2. 31.192733, -81.335061
 3. 31.176346, -81.349613
- St. Simons Island – 2 sites:
1. 31.144313, -81.370264
 2. 31.140149, -81.377192
- Jekyll Island – 2 sites:
1. 31.04519, -81.409302
 2. 31.025582, -81.417810

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Little Cumberland Island – 2 sites:

1. 30.960949, -81.404948
2. 30.964806, -81.423060

Cumberland Island – 8 sites:

1. 30.910029, -81.403749
2. 30.886412, -81.413119
3. 30.810618, -81.445867
4. 30.786812, -81.455557
5. 30.777787, -81.457786
6. 30.771379, -81.45869
7. 30.745572, -81.458547
8. 30.725289, -81.451715

Authority Ga. L. 1979, p. 1636, et seq. O.C.G.A. Title 12