

# Texas Administrative Code

<b>TITLE 31</b>	NATURAL RESOURCES AND CONSERVATION
<b>PART 4</b>	SCHOOL LAND BOARD
<b>CHAPTER 155</b>	LAND RESOURCES
<b>SUBCHAPTER A</b>	COASTAL PUBLIC LANDS
<b>RULE §155.4</b>	<b>Permits</b>

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(a) Issuance. The board may issue permits authorizing limited continued use of previously unauthorized structures, as defined in subsection (b) of this section, on coastal public lands, where such use is sought by one claiming an interest in any such structure but is not incident to the ownership of littoral property. This section is not intended to limit the authority granted to the commissioner or the School Land Board in the management of the surface estate in coastal public lands, or to be the exclusive means by which the commissioner or board may grant permission for the use of coastal public lands.

(b) Definition. A structure under this section shall be defined as any housing, capable of residential use or which otherwise would typically be considered an improvement on real property, which is in any manner attached or affixed to coastal public land and is not associated with the ownership of littoral property.

(c) Criteria. Permits granted pursuant to this section shall be subject to the following policies, provisions, and conditions, in addition to those generally applicable to the Act.

(1) The board may not:

(A) grant any permit authorizing the continued use of any structure located within 1,000 feet of privately owned littoral residential property, without the written consent of the littoral owner;

(B) grant any permit which would be in violation of the public policy of this state as expressed in these sections and regulations;

(C) grant any permit for any structure not in existence on August 27, 1973;

(D) grant more than one permit per person, immediate family, organization, company, or group; or

(E) grant any permit for dilapidated or derelict structures. A structure is considered "dilapidated" or "derelict" if it is decayed, deteriorated, structurally unsound, fallen into partial ruin, or has been abandoned either through neglect or misuse. This provision shall not prohibit the issuance of a new contract for a previously abandoned structure, provided that the permit holder agrees to rebuild or relocate the structure within one year of contract issuance.

(2) A permit authorizing continued use of a previously unauthorized structure on coastal public lands shall be deemed automatically revoked and terminated if the coastal public land where the structure is located is subsequently leased for public purposes or exchanged for littoral property, or if such land is conveyed to a navigation district as provided by law.

(3) Every permit shall provide that in the event the terms of the permit are broken, the permit may, at the option of the board, be terminated.

(4) Permitted structures may be used only for noncommercial recreational purposes. Acceptance of payment for use of a permitted structure, or for services connected with use of the structure, is expressly prohibited.

(d) Nuisance. All structures now existing or which shall be built, for which a permit is required pursuant to this section, have been declared by law to be the property of the state, and any construction, maintenance, or use of such structure except as authorized in this section is declared a nuisance per se and is expressly prohibited.

(e) Interest claim. Any person seeking to obtain an interest in a structure shall apply to the board for a permit. The application shall be accompanied by the appropriate fees, as set forth in §155.15 of this title (relating to Fees), and any documentation requested by the board.

(f) Board approval. The board may approve, deny, or approve with qualifications an application for a permit. If an application is approved by the board, the appropriate contract forms and related materials shall be forwarded to the applicant for completion. The board may include in its approval any provisions deemed necessary to protect the state's interest in coastal public lands and the public welfare.

(g) Term. The board shall set the term of the permit, which shall not exceed five years. No construction or other activities may commence at the site prior to execution of the structure permit by the commissioner of the General Land Office.

(h) Renewal. The board may, at its discretion, renew a permit upon receipt of a renewal request and the required

fees from the current permit holder if all previous contractual conditions have been met. The commissioner may approve a permit renewal request without board approval if the request is consistent with the criteria as set forth in subsection (c) of this section, provided that the permit holder has not made or proposed modifications to the permitted structure(s) that constitute major repairs other than a modification that reduces the dimensions of the structure(s). If the commissioner approves a renewal request, the appropriate contract forms and related materials shall be forwarded to the permittee for completion. The commissioner may include in his approval any provisions deemed necessary to protect the state's interest in coastal public lands and the public welfare.

(i) Relocation. The board may require relocation of any structure permitted under this section if it is determined to be in the best interest of the state. The permit holder shall be provided written notice stating that relocation of the permit is required, and explaining the reasons for relocation. Failure to comply with terms of a relocation notice may be considered grounds for termination of a permit.

(j) Transfer of interest. Board approval is required for the transfer of any interest in a permit from a current permit holder to another person. To transfer a permit, the current permit holder shall notify the board in writing of intent to terminate the existing contract, and shall provide the name of a person who seeks to assume responsibility for that site. The prospective permittee shall be forwarded the appropriate forms, and shall submit a completed permit application request and required fees to the board. To accomplish the transfer of interest, the board shall then terminate the original permit and, during the same meeting, issue a new permit for the same site to the person specified by the original permit holder, providing all original contract requirements have been complied with and all fees have been paid.

(k) Major repairs. Any action which alters the square footage of an existing permitted structure shall be considered a major repair and shall require prior approval from the board. The board may approve, deny, or approve with qualifications a request for major repairs to, or for the rebuilding of, a permitted structure. Examples of major repairs include, but are not limited to:

- (1) modification or renovation work which alters the dimensions of structures currently in existence;
- (2) the addition of any structure to an existing permitted facility;
- (3) the relocation of any structure or facility from its permitted location; or
- (4) any activity requiring dredging or filling.

(l) Minor repairs. Minor repairs may be made to a permitted structure without prior approval of the board. Minor repairs shall include routine repairs to existing docks, piers, and the structure, and other normal maintenance required to maintain a structure in a safe and secure manner but which does not alter the authorized dimensions. Examples of minor repairs include, but are not limited to:

- (1) replacement of tin or shingles on roofs, boards on floors, walls, walkways, or decks when the structural dimensions are not increased;
- (2) replacement of pilings or other structural members that do not require dredging or filling;
- (3) painting and maintenance activities; and
- (4) addition of windows, doors, or rails to an existing structure.

(m) Abandoned structures. Structures determined by the board to be abandoned may be removed from coastal public lands or permitted to an interested party through a competitive bid process approved by the board. Structures may be considered abandoned if:

- (1) no response is received to a notice posted on the structure citing the Act which requires board authorization for the structure, and containing a request that the interest holder contact the General Land Office within a specified period of time;
- (2) the interest holder in an unpermitted structure fails to complete the permit application process within 60 days after contact with the General Land Office has been made; or
- (3) all reasonable attempts to contact a permit holder at the last known address have failed.

(n) Termination. Failure to comply with these rules and regulations shall be justification for termination of the permit by the board. A permit holder shall have 60 days from the date of termination by the board to remove all personal property from the structure provided all required fees have been paid. The board shall have discretionary authority to revise this time limit, to require permittee to remove any or all structures and man-made improvements, or to assess the costs for repair of any damage to state lands and/or for any necessary removal of debris at the permit site. Any personal property remaining at the site after the 60 days, or the prescribed period set by the board, shall become property of the state and may be disposed of at the board's discretion. Structures for which the permit is terminated by the board for cause under this subsection may be removed from coastal public lands or permitted to an interested party through a competitive bid process approved by the board.

(o) Issuance of permits to new permit holders for structures determined to be abandoned or for which the permit was terminated by the board for cause. Structures determined by the board to be abandoned or for which the interest of the previous permit holder was terminated for cause may be permitted to an interested party through

a competitive bid process approved by the board in accordance with this subsection.

(1) Nominations of structures for permitting. The board, General Land Office staff, or persons seeking to obtain an interest in a specific structure may nominate for permitting a structure determined by the board to be abandoned or for which the interest of the previous permit holder was terminated for cause. Nominated structures will be evaluated by General Land Office coastal leasing staff as to suitability for permitting, including consideration of such factors as location, impacts to natural resources, and condition of the structure. The General Land Office staff may recommend relocation or rebuilding of a structure nominated for permitting.

(2) Advertising of availability of nominated structures for permitting. The board will set the terms and conditions upon which nominated structures will be offered for permitting. These terms will be advertised and bids taken.

(3) Competitive bids for permitting of nominated structures. Competitive bids may be received by the board. Anyone who notified the General Land Office, in writing, of a desire to obtain an interest in a particular nominated structure before the terms are advertised, will be furnished a bid package at least 10 business days prior to the date set for awarding of the permit for a nominated structure. Bid proposals for permits for nominated structures must specify and describe the design of the structure proposed and must be submitted with the prospective bidder's payment of his bid offer for the bonus payment and filing fee.

(4) Permit fees for nominated structures. The appropriate filing fee, bonus payment, new contract issuance fee, and annual fee for nominated structures will be determined as provided by §155.15 of this title (relating to Fees).

(5) Awards. After evaluation of all proposals, including consideration of such factors as the prospective bidder's compliance with the board's structure design guidelines and compliance history relating to structures on coastal public land, the board may award a permit for a nominated structure to the bidder submitting the proposal determined by the board to be in the best interests of the state.

(6) Improvements. Any structure to be constructed in accordance with a permit issued pursuant to this bid process is the property of the State of Texas, as provided in the Texas Natural Resources Code, §33.131.

(p) General provisions. Each permit issued by the board or commissioner shall be subject to the following general provisions.

(1) The permit number must be displayed on the structure in block numerals no less than 10 inches high. The numerals must be readily visible from the normal route of access and should be of a color that contrasts with the color of the structure. Decals, paint, or metal numerals may be used.

(2) All structures on coastal public lands shall be subject to inspection at any time by the board or its authorized representatives without prior notice to the permit holder.

(3) All structures shall be maintained in good repair and safe condition, and shall be kept in a clean and sanitary condition acceptable to the state.

(4) No domestic or wild animals of any type shall be permanently released upon state-owned islands. Domestic animals shall be prevented from disturbing nesting birds on state-owned islands.

(5) An applicant, by accepting a permit for a structure on coastal public land, agrees and consents to the following:

(A) to comply with all regulations which the board determines to be necessary and proper for the protection, conservation, and orderly development of coastal public lands;

(B) to indemnify the State of Texas against any and all liability for damage to life, person, or property arising from the permittee's occupation and use of the area covered by the interest granted; and

(C) to keep the commissioner of the General Land Office informed at all times of his or her current mailing address and telephone number.

(6) The approval of a structure permit by the board or commissioner grants exclusive rights to the permit holder for the permitted structure only, and does not prevent the board or commissioner from issuing other grants of interest for the same area or implementing specific land management practices at their discretion.

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**Source Note:** The provisions of this §155.4 adopted to be effective March 15, 1989, 14 TexReg 1081; amended to be effective January 9, 2000, 25 TexReg 210; amended to be effective May 26, 2005, 30 TexReg 3020; amended to be effective September 11, 2005, 30 TexReg 5373