

SUMMARY OF REQUIREMENTS OF BOLIVAR PENINSULA BEACH VENDING PERMIT POLICY

This is a summary only and does not contain all the information that a potential vendor should be informed of prior to submitting an application. Application packets must be requested from Galveston County Parks & Cultural Services Department
4102 Main Street (FM 519), La Marque, Texas 77568 / (409) 934-8100.

1. The Commissioners' Court assigned responsibility for implementing the rules and administering the permit process to the Galveston County Parks & Cultural Services Department. Permit application packets will be evaluated for compliance with these rules, and permits will be issued under these rules, without the individual applications or permits being subject to Commissioners' Court approval.
2. The maximum length of time for a permit allowed by law is 2 years. A vending period begins March 1 of each even-numbered year and expires the last day of February of the subsequent even-numbered year.
3. The Bolivar Peninsula beaches are divided into three geographical zones with two different permit fee rates. The County has established a maximum number of permits for each zone. Yearly fees are required to be paid before the effective date of the permit (March 1st) for each year of the vending period.
 - a. Crystal Beach Zone – Permits available: 10, Fee: \$700/year.
 - b. North Beach Zone – Permits available: 8, Fee: \$350/year.
 - c. South Beach Zone – Permits available: 8, Fee: \$350/year.
4. The categories of permits within the 3 zones are:
 - a. food and drink sales;
 - b. sale of novelties, souvenirs, and other non-food items;
 - c. jet ski rentals; and
 - d. any other category established after review of the pool of permit applications for the upcoming or current vending period.
5. A permit to lease the occupancy of port-o-lets, purchase a horse drawn carriage ride, or to sell or lease surfboards and related equipment is not limited as to the territory over which the business establishment may operate.
6. The following information is required to complete the application form:
 - a. a completed application
 - b. a current Galveston County health certificate, if food or drink products are to be sold;
 - c. two recent color photographs of the vehicle or structure to be used for the vending business establishment, showing the driver's side, the passenger's side, and the license plate number of any vehicle and the front and back of any structure;
 - d. the applicant's sales tax number;
 - e. a copy of the applicant's assumed name certificate, if required under Chapter 36, Business & Commerce Code; and
 - f. the application fee of \$100 for each application.
7. Other conditions apply and are noted in the policy itself. Each applicant is responsible for being familiar with that information prior to applying.

1. Introduction

- 1.1. These rules established a system for the issuance of beach vending permits which authorize a permittee to sell or lease a commodity on public beaches that are not within the boundaries of a state park or an incorporated city. Permit procedures, fees, and requirements are specified in these rules.

2. Statutory Authority

- 2.1 These rules are adopted by the Commissioners' Court under the authority of Subchapter E, Chapter 61, and Texas Natural Resources Code.

3. Considerations in Exercising Authority

- 3.1 These rules are adopted and are to be administered in accordance with the legislative considerations set forth in Section 61.174, Natural Resources Code, that:
 - 3.1.1. The number of mobile business establishments receiving permits from the County should not constitute a substantial interference with the free and unrestricted rights of ingress and egress of the public to public beaches;
 - 3.1.2. The number of permits issued by the County are sufficient to ensure free and unrestricted competition in selling or leasing of commodities to the public; and
 - 3.1.3. No person should be allowed to operate any mobile business establishment on any public beach in restraint of trade or competition by which the person controls all or substantially all of the business establishments on the public beach that have been issued permits by the County.
- 3.2. Section 61.169 of the Natural Resources Code prohibits the County from issuing permits for business establishments located at a fixed or permanent location on a public beach. All business establishments must be mobile.

4. Definitions

- 4.1. In these rules:
 - 4.1.1. "Beach vending permit" or "permit" means a permit issued under these rules.
 - 4.1.2. "Business establishment" means any structure or vehicle where any commodity, including memberships in any private club or similar organization, is offered to the public for sale or lease, but does not include any structure or vehicle where only services are offered to the public for sale.
 - 4.1.3. "Commissioners' Court" means the Galveston County Commissioners' Court.
 - 4.1.4. "County" means Galveston County, Texas.
 - 4.1.5. "Department" means the Galveston County Parks & Cultural Services Department.
 - 4.1.6. "Eligible application" means an application certified by the Director to comply with the requirements of Section 12.1.
 - 4.1.7. "Director" means the Director of the Parks & Cultural Services Department.
 - 4.1.8. "Mobile" means vehicular in nature, on wheels, or of such nature that it is capable of moving or being moved for set-up after sunrise and removal from the beach area at sunset each day.

- 4.1.9. “Novelty” means a small manufactured article intended mainly for personal or household adornment.
- 4.1.10. “Permittee” means a person who is granted a beach vending permit to operate a business establishment on a public beach under these rules.
- 4.1.11. “Public beach” has the meaning assigned by Section 61.001, Natural Resources Code.
- 4.1.12. “Sale or lease” or “sell or lease” includes offering any commodity in exchange for a price or other donation.
- 4.1.13. “Vending” means offering to sell or lease a commodity to the public from a business establishment.
- 4.1.14. “Vending period” means the two-year period beginning March 1 and ending the last day of February in the second following calendar year.
- 4.1.15. “Vendor” means a person who sells or leases commodities on a public beach from a business establishment.
- 4.1.16. “Zone” means one of the three Bolivar Peninsula beach zones designated by Section 6.1 of these rules.
- 4.1.17. “Zoned category” means one of the categories of operation described by Section 7.1 for which the permit is restricted to a designated zone.
- 4.1.18. “Zoned permit” means a beach vending permit other than a permit described by Sections 7.1 or 7.2 that is restricted to operations in a designated zone.
- 4.1.19. “Water activities” means any activity, or rental that involves the water and our guests.

5. Commissioners’ Court, Parks & Cultural Services Department, Director

- 5.1. The Commissioners’ Court assigns responsibility for implementing these rules and administering the permit process to the Parks Department, its Director, and its staff. Permit application packets may be evaluated for compliance with these rules, and permits may be issued by the Director or Director approved staff member under these rules, without the individual applications or permits being subject to Commissioners’ Court approval.
- 5.2. The Director may establish additional rules, procedures, and conditions necessary or appropriate to carry out the purposes of these rules.
- 5.3. The Department may make recommendations to the Commissioners’ Court regarding implementing or amending these rules.
- 5.4. The Commissioners’ Court retains oversight authority over the beach vending permit policy evidenced by these rules and the administration of the permit process.

6. Maximum Territorial Limits, Bolivar Peninsula Beach Zones

- 6.1. Except for permits described by Sections 7.2, 7.3, or 7.4 each permit issued shall be limited to one of three zones, which three zones together comprise the public beaches on the Bolivar Peninsula, in Galveston County, Texas, not within the boundaries of a state park or an incorporated city. The three zones and their boundaries are the:
 - 6.1.1. Crystal Beach Zone, bounded on the southwest by an imaginary line drawn by projecting the center line of Alma Street to the Gulf of Mexico, and bounded on the northeast by an

imaginary line drawn by projecting the centerline of Gulf Shores to the Gulf of Mexico; (Barrel 51 ½ - 75 ½)

- 6.1.2. North Beach Zone, bounded on the southwest by an imaginary line drawn by projecting the center line of Gulf Shores to the Gulf of Mexico, and bounded on the northeast by the Chambers County line; (Barrel 75 ½ - County Line) and
- 6.1.3. South Beach Zone, bounded on the northeast by an imaginary line drawn by projecting the center line of Alma Street to the Gulf of Mexico, and bounded on the southwest by the Texas Department of Transportation Highway 87 ferry landing. (Barrel B1- 51 ½)

7. Permit Categories, Prohibited Activities

- 7.1. The categories for zoned permits, which do not include the surfboard and related equipment, portable toilet, or horse drawn carriages categories described in Sections 7.2, 7.3, or 7.4 are:
 - 7.1.1. food and non-alcoholic beverage sales including ice sales;
 - 7.1.2. sale of novelties, souvenirs, and other non-food or non-alcoholic beverage items;
 - 7.1.3. jet ski rentals; and
 - 7.1.4. any other category established by the Director after review of the pool of permit applications for the upcoming or current vending period.
- 7.2. Pursuant to Section 61.173(b), Natural Resources Code, a permit to sell or lease only surfboards and related equipment may not be limited as to the territory over which the business establishment may operate. Related equipment for surfboards is as follows, Paddles, Paddle Boards, Skim Boards, Kayaks, Boogie Boards, Floats, Flippers, Water Bikes, and Water Trikes.
- 7.3. A permit to lease the occupancy of portable toilets is not limited as to the territory over which the business establishment may operate. A permit will not be issued for a business establishment that operates more than nine portable toilets.
- 7.4. A permit to sell horse drawn rides is not limited as to the territory over which the business establishment may operate. A permit will not be issued for a business establishment that operates more than six horse drawn carriages.
- 7.5. Prohibited Categories
 - 7.5.1. Alcohol—According to the Texas Alcoholic Beverage Commission (TABC), generally, licenses will not be approved for mobile business establishments.

Therefore, the County will not issue permits to sell alcoholic beverages through the beach vending program.
 - 7.5.2. Firearms, Ammunitions, and Explosives—According to the Bureau of Alcohol, Tobacco, and Firearms (BATF), permits for the sale of firearms, ammunition, or explosives will not be approved for mobile business establishments. Therefore, the County will not issue permits to sell firearms, ammunition, or explosives through the beach vending program.
 - 7.5.3. Fireworks (pyrotechnic devices)—According to the Texas State Fire Marshal, permits for the sale of fireworks will not be approved for mobile business establishments. Therefore, the County will not issue permits to sell fireworks through the beach vending program.
- 7.6. Accepting monetary donations are not allowed on the Bolivar Peninsula. If money is exchanging hands for any good or service you must have a vendors permit. Exceptions

could be made for a 5013C. The discretion will be left up to the Director of Parks & Cultural Services.

8. Maximum Number of Zoned Permits, Allocation of Zoned Permits Among Categories.

- 8.1. The total number of zoned permits that may be issued at the beginning of a vending period or that may be in effect at any time during the vending period is limited to a maximum of:
 - 8.1.1. 10 permits for the Crystal Beach Zone;
 - 8.1.2. 8 permits for the North Beach Zone; and
 - 8.1.3. 8 permits for the South Beach Zone.
- 8.2. The maximum total number of permits for a zone shall be allocated among the zoned categories. For each type of business that sells similar products there will be a limit of two per zone. For example two permits will be issued for snow cone vendors in the Crystal Beach Zone. The same applies for the North Beach Zone and the South Beach Zone.
- 8.3. Either the Director or Director approved staff member shall perform the initial allocation for a vending period after the application deadline and before permits are issued for that vending period. The Director or Director approved staff member may adjust the allocation as required during the vending period to reflect the interest in categories for replacement permits.
- 8.4. A maximum of one permit per zone may be issued to any individual or entity, regardless of category.
- 8.5. No preference or other consideration will be given with regard to status as a previous or current permit holder or any other status.
- 8.6. Snow Cone vendors and Pre-packaged Ice-cream vendors are considered separate businesses. The vendor will need to choose which business they intend on operating on the application.

9. Term of Permit, Vending Period

- 9.1. A permit is valid for one two-year vending period. A vending period begins March 1 of each even-numbered year and expires the last day of February of the subsequent even-numbered year.

10. Application For Permit, Payment By Cashier's Check or Money Order

- 10.1. An applicant for a beach vending permit must complete and submit an application packet. The application packet becomes available during each odd-numbered year on October 1st. The deadline for submission of the application packet is January 1 of each even-numbered year. Applications will not be accepted after the deadline. The application packet must include:
 - (a) the name and street address of the applicant;
 - (b) the commodity to be sold or leased;
 - (c) the zone in which the business establishment is applying to operate, if the application is for a zoned category;
 - (d) personal history information;
 - (e) financial history of the proposed business; and
 - (f) business references;
 - (g) the applicant's sales tax number;

- (h) a current Galveston County Health Certificate, if food or drink products are to be sold. If proof of a Galveston County Health Certificate is not received within three business days of the expiration, the vendor's permits will be voided. As a Bolivar Beach Vendor it is your responsibility to keep your County Health Certificate up to date and to keep Galveston County informed;
 - (i) two recent color photographs of the vehicle or structure to be used for the vending business establishment, showing the driver's side, the passenger's side, and the license plate number of any vehicle and the front and back of any structure;
 - (j) the appropriate application fee.
- 10.2. After the permit allocation takes place, selected vendors must provide the following information before any permits will be issued:
- (a) proof of current vehicle liability insurance and current general liability insurance, showing Galveston County as additional insured, in the minimum amounts of \$100,000 per injury, \$300,000 per occurrence, and \$100,000 property damage. Insurance must be valid for the entire vending period. If proof of insurance is not received within three business days of the expiration, the vendor's permits will be voided. As a Bolivar Beach Vendor it is your responsibility to keep your insurance up to date and Galveston County informed;
 - (b) a copy of the applicant's assumed name certificate, if required under Chapter 36, Business & Commerce Code; and
 - (c) any other certificates, permits, or licenses required for the sales of a specific product.
- 10.3 Applications can be dropped off in person during normal business hours, or mailed to:

Rufus G. Crowder, CPPO CPPB
Purchasing Agent
County of Galveston
Attn: Bolivar Beach Vending
722 Moody Avenue (21st Street), Fifth (5th) Floor
Galveston, TX 77550

The time stamp clock located in the Purchasing Agent's office shall serve as the official time keeping piece for this process. Any proposals received after the January 1st deadline will be returned unopened.

- 10.4 A cashier's check or money order for an application fee is to be made payable to "Galveston County". The County discourages payments made in cash.
- 10.5 Applications cannot be dropped off or post marked before October 1st on odd numbered years.

11. Application Fees

- 11.1. The application fee for each separate permit application is \$100.00.
- 11.2. In addition to the application fee, a permittee must pay a yearly operating fee as required by Section 13.
- 11.3. If an application for a permit is not granted, the Department shall return the application fee to the applicant.
- 11.4. The application fee and the yearly operating fee may be used by the County to pay the expenses of carrying out the provisions of Subchapter E, Chapter 61, Natural Resources Code.

- 11.5. An applicant must submit a separate application packet and application fee for each permit it seeks in each category in which it seeks to operate. A permit is only valid for a single business establishment as described in the application packet. An applicant is not eligible for more than one permit per zone.
- 11.6. If an applicant applies for and is approved to receive two or three permits for identical categories in different zones, the applicant may choose which zone or zones it prefers for its business and waive all but one of the permits approved for issuance to the applicant. The waiver must be in writing and delivered to the Director not later than the 5th day after the date the applicant receives notice that its multiple applications have been approved. The filing fee for an application that was approved but waived by the applicant in accordance with this section shall be returned to the applicant.

12. Eligibility For Permit Approval And Award, Waiting List

- 12.1. The Director or Director approved staff member shall certify an application as eligible for issuance of a permit, subject to the limitations on the maximum number of permits that may be issued and the allocation among categories under Section 8, if the Director or Director approved staff member finds that:
 - 12.1.1. the applicant has complied with the requirements of these rules;
 - 12.1.2. issuance of the applicant's permit would be consistent with recreational needs and the public welfare; and
 - 12.1.3. the applicant's business establishment would not create a traffic or safety hazard.
- 12.2. Applicants are chosen on a first come first serve basis. Applications will be received by the purchasing department and time stamped in the order that they're received.
- 12.3. If the number of eligible applicants (time stamped the same date and time) for one category of permits for a zone exceeds the number of zoned permits allocated for issuance in that category, the Director shall select the applicants to be issued zoned permits in that zoned category by drawing lots.
- 12.4. If lots are drawn, the names of the applicants with eligible applications not selected in the drawing shall be placed by the Director or Director approved staff member on a waiting list for that category and zone. If more than one unselected applicant exists for a category and zone, the order of priority on the waiting list shall be determined by drawing lots. Names of other parties expressing an interest in that category and zone may be added to the waiting list during the vending period in the order in which the names are received by the Director or Director approved staff member. If a replacement permit is to be issued under Section 14 for that category and zone, priority shall be given to the parties named on the waiting list, in the order in which their names appear on the list. A party on the waiting list who fails to respond to a request to submit a complete application packet within one week of being notified that a replacement permit is to be issued may be removed from the waiting list.
- 12.5. Preferences shall not be given to any applicant based on status as a previous or current permit holder or any other status.

13. Yearly Operating Fee

- 13.1. A permittee must pay a yearly operating fee to the Department from the effective date of the permit through September for each year of the vending period, regardless of what month the permittee actually begins operations. The amount of the yearly operating fee is:
 - 13.1.1. \$700.00 for a permit for the Crystal Beach Zone;

- 13.1.2. \$350.00 for a permit for the North Beach or South Beach Zones;
 - 13.1.3. \$700.00 for a permit for surfboard sale or rentals;
 - 13.1.4 \$700.00 for a horse drawn carriage permit; and
 - 13.1.4. \$350.00 for a permit for portable toilets.
- 13.2. The yearly operating fee is due on the effective date of the permit. A permittee whose zoned permit is revoked is not entitled to a refund of previously paid yearly operating fee or application fee.

14. Replacement Permit for Zoned Categories

- 14.1. A replacement permit in a zoned category may be issued for a specific zone if during the vending Period if the Director revokes a permit in that category for that zone.
- 14.2. An applicant for a replacement permit to be issued during the vending period is not subject to the January 1 application deadline. The applicant will instead incur a prorated operating fee which is due on the effective date of the permit through September. A replacement permit is valid for the remaining term of the current vending period.

15. Amendment of Permit

- 15.1. Permits may not be amended once they are issued. A Permittee wishing to amend his/her permit must submit a new application form, as well as a cashier's check or money order in the amount of \$100.00 as an application fee.

16. Revocation of Permit

- 16.1. The failure or refusal of a permittee to comply with the terms and conditions stated on the face of a permit or in these rules shall operate as an immediate termination and revocation of all rights conferred in or claimed under the permit.
- 16.2. The termination or revocation of a permit is not effective until notice is delivered by mail to the address of the permittee listed on the application for the permit, as required by Section 61.172, Natural Resources Code.
- 16.3. A permittee whose permit is revoked is not entitled to a refund of any previously paid yearly operating fees or application fees.

17. General Conditions

- 17.1. Permits will not be issued for fixed or permanent business establishments.
- 17.2. Business may be conducted ONLY from mobile business establishments and only upon the area of public beach within the jurisdiction of the County from the line of mean low tide to the natural vegetation line on Bolivar Peninsula and within the boundaries of Galveston County. Subject to the restrictions of the permit the permittee is operating under and the restrictions of Section 17.12. and 18.3, each permittee is entitled to daily select the location of its mobile business establishment on a first come, first served basis. All permit holders must remove all materials, facilities, and vehicles used in conjunction with their operations at sunset each day and will be permitted to set up again after sunrise the following day. During large events exceptions can be made but they must be approved by the Director or Director approved staff member.
- 17.3. A mobile business establishment may not block any access road to the beach
- 17.4. A mobile business establishment may not locate on or, in the case of a mobile business using a moving vehicle, stop for business transactions in such a manner as to block established linear traffic routes upon the beach in a generally northeast/southwest direction.

- 17.5. Permit holders, with the exception of Surf Board, Horse Drawn Carriage, and Jet Ski rentals, must limit the amount of space used by their operation to a maximum radius of five feet beyond the vehicle or structure from which they are operating. Surf board, Horse Drawn Carriage, and Jet Ski rental permit holders must limit the amount of space used by their operation to a maximum radius of 20 feet beyond the vehicle or structure from which they are operating.
- 17.6. A vendor must abide by all laws and regulations of the United States of America, the State of Texas, the Texas Parks and Wildlife Department, and the County of Galveston.
- 17.7. A vendor may operate only the type of business described in its permit.
- 17.8. A vendor must provide garbage receptacles for any refuse generated as a result of its beach vending activities and by members of the public who purchase or lease from the vendor. A garbage receptacle must be located within 20 feet of the business establishment. A vendor is responsible for daily removal of garbage it or its customers generate. Removal may be satisfied by removing garbage from each location at which the vendor operates by the vendor: (1) removing the garbage from the Bolivar Peninsula public beach area; (2) disposing of the garbage at Peninsula Waste Management on Noble Carl Road in Crystal Beach; or (3) contracting with a licensed waste removal company. On request the permittee must show proof of a contract with a licensed waste removal company or file a report of its garbage removal procedures.
- 17.9. A vendor must mark on or otherwise identify its licensed mobile business establishment with the permittee's company name or assumed name, as listed in its application. **The name must be plainly visible to the public from at least two sides of the mobile business establishment. A mobile business establishment may not have any detached signs. All advertising and identification signs must be permanently attached to or painted on the mobile business establishment as described in the application packet.**
- 17.10. **A vendor must prominently display its permit so that it is plainly visible to the public from at least one side of the mobile business establishment.**
- 17.11. A vendor may not conduct business between the hours of sunset and sunrise, unless different hours of operation are specifically approved in the vendor's permit.
- 17.12. A vendor may not sell or distribute glass containers or any commodity in a glass container.
- 17.13. A vendor may not conduct business from a stationary location within 50 yards of another stationary beach vendor operating under the same category of permit. A vendor may not conduct business from a location within 0.5 mile of a permanent business established and operating at a location adjacent to the public beach.
- 17.14. The vendor or permittee must maintain or comply with the criteria or standards set by these rules for the issuance of the permit during the term of the permit.

18. Additional Requirements for Water Activities

- 18.1. A permittee receiving a permit for water activities comply with the requirements of this section not later than the 30th day after date of issuance of the permit, but prior to the beginning of operation of business, the water activities permittee must file a safety plan with the following parties at the address indicated below:

**Galveston County Parks Department
PO Box 1679
Crystal Beach, TX 77650
Attn: Bolivar Beach Sticker Supervisor**

**Galveston County Sheriff
601 54th Street
Galveston, Texas 77551**

- 18.2. The safety plan must include:
 - 18.2.1. an assurance that all riders will wear Coast Guard approved life jackets;
 - 18.2.2. a copy of instructions that the vendor intends to provide to each rider, which instructions must conform to state and local law concerning the operation of watercraft with an emphasis on safety of swimmers in nearby waters;
 - 18.2.3. an assurance that markers or buoys will be placed, designating the area where riding is allowed;
 - 18.2.4. a description of a rescue procedure for riders with non-operational equipment due to damage or mechanical failure or for injured riders unable to control the craft and safely return to shore; and
 - 18.2.5. a description of the vendor's procedure for medical care of injured riders.
- 18.3. A vendor operating under a water activities permit may not conduct business from a location within 0.5 mile of another water activities permittee's business establishment and must not interfere with private water activities. .
- 18.4. A vendor operating under a water activities permit must comply with all state laws applicable to the operation of motor craft.

19. Penalty, Enforcement

- 19.1. Section 61.177, Natural Resources Code, provides that a person, who for himself or on behalf of or under the direction of another person, operates any business establishment, whether mobile or at a fixed or permanent location, on any public beach outside the boundaries of any incorporated city without first obtaining a license to operate the business establishment from the county shall be fined not less than \$10 nor more than \$200.
- 19.2. Any law enforcement agency with geographical jurisdiction within the area affected by these rules is authorized to enforce these rules. The Director may request the Texas Parks and Wildlife game wardens to assist with enforcement of these rules, pursuant to Section 61.178, Natural Resources Code.