

### **62B-33.005 General Criteria for Areawide and Individual Permits.**

(1) The beach and dune system is an integral part of the coastal system and represents one of the most valuable natural resources in Florida, providing protection to adjacent upland properties, recreational areas, and habitat for wildlife. The CCCL is intended to define that portion of the beach and dune system which is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other forces such as wind, wave, or water level changes. These fluctuations are a necessary part of the natural functioning of the coastal system and are essential to post-storm recovery, long term stability, and the preservation of the beach and dune system. The CCCL and 50-foot setback call attention to the special hazards and impacts associated with the use of such property, but do not preclude all development or alteration of coastal property seaward of such lines.

(2) In order to demonstrate that construction is eligible for a permit, the applicant shall provide the Department with sufficient information pertaining to the proposed project to show that adverse and other impacts associated with the construction have been minimized and that the construction will not result in a significant adverse impact.

(3) After reviewing all information required pursuant to this rule chapter, the Department shall:

(a) Deny any application for an activity which either individually or cumulatively would result in a significant adverse impact including potential cumulative effects. In assessing the cumulative effects of a proposed activity, the Department shall consider the short-term and long-term impacts and the direct and indirect impacts the activity would cause in combination with existing structures in the area and any other similar activities already permitted or for which a permit application is pending within the same fixed coastal cell. The impact assessment shall include the anticipated effects of the construction on the coastal system and marine turtles. Each application shall be evaluated on its own merits in making a permit decision; therefore, a decision by the Department to grant a permit shall not constitute a commitment to permit additional similar construction within the same fixed coastal cell.

(b) Deny any application for an activity where the project has not met the Department's siting and design criteria; has not minimized adverse and other impacts, including stormwater runoff; or has not provided mitigation of adverse impacts.

(4) The Department shall issue a permit for construction which an applicant has shown to be clearly justified by demonstrating that all standards, guidelines, and other requirements set forth in the applicable provisions of Part I, Chapter 161, F.S., and this rule chapter are met, including the following:

(a) The construction will not result in removal or destruction of native vegetation which will either destabilize a frontal, primary, or significant dune or cause a significant adverse impact to the beach and dune system due to increased erosion by wind or water;

(b) The construction will not result in removal or disturbance of in situ sandy soils of the beach and dune system to such a degree that a significant adverse impact to the beach and dune system would result from either reducing the existing ability of the system to resist erosion during a storm or lowering existing levels of storm protection to upland properties and structures;

(c) The construction will not direct discharges of water or other fluids in a seaward direction and in a manner that would result in significant adverse impacts. For the purposes of this rule section, construction shall be designed so as to minimize erosion induced surface water runoff within the beach and dune system and to prevent additional seaward or off-site discharges associated with a coastal storm event.

(d) The construction will not result in the net excavation of the in situ sandy soils seaward of the control line or 50-foot setback;

(e) The construction will not cause an increase in structure-induced scour of such magnitude during a storm that the structure-induced scour would result in a significant adverse impact;

(f) The construction will minimize the potential for wind and waterborne missiles during a storm;

(g) The activity will not interfere with public access, as defined in Section 161.021, F.S.; and,

(h) The construction will not cause a significant adverse impact to marine turtles, or the coastal system.

(5) In order for a manmade frontal dune to be considered as a frontal dune defined under Section 161.053(5)(a)1., F.S., the manmade frontal dune shall be constructed to meet or exceed the protective value afforded by the natural frontal dune system in the immediate area of the subject shoreline. Prior to the issuance of a permit for a single-family dwelling meeting the criteria of Section 161.053(5)(c), F.S., the manmade frontal dune must be maintained for a minimum of 12 months and be demonstrated to be as stable and sustainable as the natural frontal dune system.

(6) Sandy material excavated seaward of the control line or 50-foot setback shall be maintained on site seaward of the control line or 50-foot setback and be placed in the immediate area of construction unless otherwise specifically authorized by the Department.

(7) Only beach compatible fill shall be placed on the beach or in any associated dune system. All fill material placed seaward of the CCCL shall be sand which is similar to that already existing in the same fixed coastal cell in coloration, grain size, and composition. Beach compatible fill is material that maintains the general character and functionality of the material occurring on the beach and in the adjacent dune and coastal system. Such material shall be predominately of carbonate, quartz or similar material with a particle size distribution ranging between 0.062mm (4.0 $\phi$ ) and 4.76mm (-2.25 $\phi$ ) (classified as sand by either the Unified Soils or the Wentworth classification), shall be similar in color and grain size distribution (sand grain frequency, mean and median grain size and sorting coefficient) to the material in the existing coastal system at the placement area and shall not contain:

- (a) Greater than 5 percent, by weight, silt, clay or colloids passing the #230 sieve (4.0 $\phi$ );
- (b) Greater than 5 percent, by weight, fine gravel retained on the #4 sieve (-2.25 $\phi$ );
- (c) Coarse gravel, cobbles or material retained on the 3/4 inch sieve in a percentage or size greater than found at the placement area;
- (d) Construction debris, clay balls or foreign matter; or,
- (e) Material that results in cementation of the beach.

The Department reserves the right to approve deviations from the above criteria, if those deviations would not increase the potential for adverse impacts to the coastal system. When requesting such deviations, the applicant shall provide fully documented evidence that would justify the deviations.

(8) Swimming pools, wading pools, waterfalls, spas, or similar type water structures are expendable structures and shall be sited so that their failure does not have adverse impact on the beach and dune system, any adjoining major structures, or any coastal protection structure. Pools sited within close proximity to a significant dune shall be elevated either partially or totally above the original grade to minimize excavation and shall not cause a net loss of material from the immediate area of the pool. All pools shall be designed to minimize any permanent excavation seaward of the CCCL.

(9) All structures, except those required for public safety, beach access, and those associated with dune restoration and special events, shall be located a sufficient distance landward of the beach and frontal dune to permit natural shoreline fluctuations, to preserve and protect beach and dune system stability, and to allow natural recovery to occur following storm-induced erosion. If such structure is proposed at a location where there is no frontal dune, but the project includes dune restoration to reestablish a frontal dune that is consistent with the frontal dune on adjacent properties, then the structure shall be located a sufficient distance landward of the beach and restored or reestablished frontal dune to permit natural shoreline fluctuations, to preserve and protect beach and dune system stability, and to allow natural recovery to occur following storm-induced erosion. Where a rigid coastal structure exists it must be certified by an engineer licensed in the State of Florida or determined by the Department to provide protective value from a 15-year or greater return interval storm event, and the proposed major structures shall be located a sufficient distance landward of the rigid coastal structure to allow for future maintenance or repair of the rigid coastal structure. Although fishing piers shall be exempt from this provision, their foundation piles shall be located so as to allow for the maintenance and repair of any rigid coastal structure that is located in close proximity to the pier.

(10) If in the immediate area a number of existing major structures have established a reasonably continuous and uniform construction line and if the existing structures have not been unduly affected by erosion, except where not allowed by the requirements of Section 161.053(5), F.S., and this rule chapter, the Department shall issue a permit for the construction of a similar structure up to that line.

(11) In considering applications for single-family dwellings proposed to be located seaward of the 30-year erosion projection pursuant to Section 161.053(5), F.S., the Department shall require structures to meet criteria in Section 161.053(5)(c), F.S., and all other siting and design criteria established in this rule chapter.

(12) In considering project impacts to native vegetation, the Department shall evaluate:

- (a) The type and extent of native vegetation;
- (b) The degree and extent of disturbance by invasive nuisance species and mechanical and other activities;
- (c) The protective value to adjacent structures and natural plant communities;
- (d) The protective value to the beach and dune system; and
- (e) The impacts to marine turtle nesting and hatchlings.

The Department shall restrict activities that lower the protective value of natural and intact beach and dune, coastal strand, and maritime hammock plant communities. Activities that result in the removal of protective root systems or reduce the vegetation's sand trapping and stabilizing properties of vegetation are considered to lower its protective value. Construction shall be located,

where practicable, in previously disturbed areas or areas with non-native vegetation in lieu of areas of native plant communities when the placement does not increase adverse impact to the beach and dune system. Planting of invasive nuisance plants, such as those listed in the Florida Exotic Pest Plant Council's 2005 List of Invasive Species – Categories I and II, will not be authorized if the planting will result in removal or destruction of existing dune-stabilizing native vegetation or if the planting is to occur on or seaward of the dune system. A copy of this list is available on the Internet at [www.fleppc.org](http://www.fleppc.org); or can be obtained by contacting the Department of Environmental Protection, 2600 Blair Stone Road, MS 3522, Tallahassee, Florida 32399-2400; at <https://floridadep.gov/water/coastal-construction-control-line/content/coastal-construction-control-line-cccl-forms> or by telephoning (850)245-2094. Special conditions relative to the nature, timing, and sequence of construction and the remediation of construction impacts shall be placed on permitted activities when necessary to protect native vegetation and native plant communities. A construction fence, a designated location for construction access or storage of equipment and materials, and a restoration plan shall be required if necessary for protection of existing native salt-tolerant vegetation during construction.

(13) Special conditions relative to the nature, timing, and sequence of construction shall be placed on permitted activities when necessary to protect marine turtles and their nests and nesting habitat. In marine turtle nesting areas, all forms of lighting shall be shielded, and utilize long wavelength light sources only (e.g. 560 nanometers (nm) or longer and absent wavelengths below 560 nm) with all lamps recessed within well shielded, full cut-off fixtures or otherwise designed so as not to disturb marine turtles. Tinted glass or similar light control measures shall be used for windows and doors which are visible from the nesting areas of the beach. Tinted glass shall be 45 percent or less inside to outside light transmittance on all non-opaque doors, walls, balcony, deck railings, and windows. The Department shall suspend any permitted construction when the permittee has not provided the required protection for marine turtles and their nests and nesting habitat.

(14) Rebuilt pipelines and ocean outfalls crossing the beach and littoral zone, or the extension of existing pipelines or ocean outfalls, shall be designed to withstand at a minimum the erosion, scour, and loads accompanying a 20-year or greater storm event. Rebuilt pipelines and ocean outfalls shall be constructed below grade across the beach and littoral zone.

(15) Fishing or ocean piers or the extension of existing fishing or ocean piers shall be designed to withstand at a minimum the erosion, scour, and loads accompanying a 20-year storm event. Pile foundations shall not obstruct the longshore sediment transport and shall be designed to minimize any impact to the shoreline or coastal processes.

*Rulemaking Authority 161.052(11), 161.053(20), 161.085(5) FS. Law Implemented 161.052(2), 161.053(2), (4), (5), (6), (12), (17), (18), 161.085(1), (2) FS. History—New 11-18-80, Amended 3-17-85, 11-10-85, Formerly 16B-33.05, 16B-33.005, Amended 9-12-96, 1-26-98, 8-27-00, 6-13-04, 5-31-07, 11-28-18.*