

Texas General Land Office Issues Temporary Suspension on the Line of Vegetation (LOV)

The 2020 hurricane season brought an onslaught of particularly damaging effects, especially from Hurricane Laura and Tropical Storm Beta. The Galveston and Surfside areas experienced a loss of beach elevation and a significant loss of dunes and dune vegetation.

The Texas General Land Office conducted extensive beach surveys following the storms and determined that the line of vegetation (LOV) had been completely obliterated in certain areas.

Due to the damaging effects of the storms and the obliteration of the LOV in some areas, the Texas General Land Office has issued an Order under the authority of Texas Natural Resource Code Sections [61.0171](#) and [61.0185](#) that temporarily suspends the determination of the LOV for two years and suspends certain enforcement actions for removal of houses on the public beach for three years in Surfside and in parts of Galveston. This Temporary Order is necessary to give the beach and dune system time to recover naturally from the meteorological events and establish a new line of vegetation. This temporary Order also maintains the status quo for the duration of the order protecting the private property rights of littoral landowners.

Under the Order, for a period of two years, the public beach will extend to a line 200 feet inland from the line of mean low tide as established by a licensed state land surveyor. For permitting purposes, local governments will be required to use 200 feet landward of MLT as the LOV, as applicable depending on the local government's Beach Access & Dune Protection Plan. This Order applies to homeowners, businesses, and local governments during the permitting process.

The establishment of the LOV at 200 feet from mean low tide line will mean that a limited number of homes are now partially or wholly located on the public beach. One of the primary purposes of the Order is to give the beach and natural line of vegetation time to recover rather than seeking immediate enforcement regarding structures located on the public beach. The Order includes a three-year suspension of the ability for the Commissioner to request that the Texas Attorney General's Office file a suit to remove any home from the public beach. The only two exemptions to this rule are that:

1. The house must have been located landward of the natural LOV prior to the meteorological events that are the subject of this Order; and
2. The house must not present an imminent threat to public health and safety.

During the duration of this Order, property owners may make limited repairs to their homes that are seaward of the LOV in accordance with [31 TAC § 15.11](#).

The temporary suspension of the LOV and enforcement Order applies within the Village of Surfside Beach city limits and in the City of Galveston from the western terminus of the Seawall west to 13 Mile Road.

FAQ (FREQUENTLY ASKED QUESTIONS)

- **Why is this action necessary?**

This action is necessary because the LOV was destroyed by Hurricane Laura and Tropical Storm Beta. The Open Beaches Act allows the Texas General Land Office to suspend usual LOV determinations and set the boundary of the public beach at 200 feet from Mean Low Tide for a

period of up to three years to allow for natural recovery of the vegetation line. Simultaneously, the Open Beaches Act also allows the Land Office to suspend requests to the Attorney General's office to remove homes that may now be located seaward of the boundary of the public beach for a period of three years. This is being done in order to maintain the status quo and protect private property rights while giving the beach and dune system time to recover naturally from the meteorological events.

- **How was the line decided upon?**

The temporary line was determined by a licensed state land surveyor through on-the-ground surveys that were conducted by the GLO in January 2021. The survey line located 200 feet from mean low tide marks the minimum extent of the public beach easement where the natural line of vegetation has been obliterated.

- **Where would the LOV be measured if the Commissioner had not issued this Order?**

By statute, the LOV is at 200 feet from mean low tide when it has been obliterated by a storm, even without the order. The purpose of the order is to make it easier for local governments and landowners to determine the location of the LOV, and to provide temporary relief from enforcement against homes determined to be located on the public beach.

- **What areas of the coast are affected?**

The portions of the Village of Surfside Beach city limits and the City of Galveston from the western terminus of the Seawall west to 13 Mile Road (See maps below for a more detailed outline).

- **Is the GLO going to remove houses that are seaward of 200 feet from mean low water?**

No. Not at this time. The Order issued by the Land Office suspends the ability to request that the Texas Attorney General's Office file a suit remove a home from the public beach for three years.

- **Will the GLO condemn my house when the three-year period is over?**

The GLO does not have condemnation authority. However, construction is not allowed on the public beach and the GLO is charged with ensuring that existing and new construction does not impact the public's ability to use or access the beach. Typically under the Open Beaches Act, if any portion of a structure is located within the public beach easement, it is considered an encroachment on the easement and may be subject to removal through an enforcement action if the structure is or becomes a health and safety risk or significantly impedes the public's ability to traverse the beach.

- **Does this Order suspend all enforcement action by the GLO for 3 years?**

No, the GLO can still pursue enforcement if you perform construction without a permit or in a manner not compliant with an existing permit. This Order only suspends enforcement for removal of homes or structures that are located on the public beach.

- **May a property owner repair a home that is encroaching on the public beach?**

Yes, in certain cases. However, under the Order and state rules for beachfront construction, there are limitations on what activities may be performed. A homeowner may be eligible to obtain a permit under [31 TAC § 15.11](#) which lays out the following conditions:

1. The line of vegetation establishing the boundary of the public beach has moved as a result of erosion or a meteorological event.
 2. The house was located landward of the line of vegetation before the erosion or meteorological event occurred.
 3. No portion of the house is located seaward of mean high tide.
 4. The house was not damaged more than 50 percent as the result of a meteorological event.
 5. The house does not present an imminent threat to public health and safety.
- **My house is located partially or entirely seaward of the 200 feet from mean low water line, what construction activities can I do?**

A local government may issue a certificate or permit authorizing repair of an eligible house if the local government determines that the repair:

1. is solely to make the house habitable including reconnecting the house to utilities;
2. does not increase the footprint of the house;
3. does not include the use of impervious material, including but not limited to concrete or fibercrete, seaward of the boundary of the public beach;
4. does not include the construction of an enclosed space below the base flood elevation and seaward of the boundary of the public beach;
5. does not include the repair, construction, or maintenance of an erosion response structure seaward of the boundary of the public beach;
6. does not occur seaward of mean high water; and
7. does not include construction underneath, outside or around the house other than for reasonable access to or structural integrity of the house, provided that such repair does not create an additional obstruction to public use of and access to the beach.

In addition, only beach-quality sand may be placed beneath the footprint of an eligible house and in an area up to five feet seaward of the house. The beach-quality sand must remain loose and cannot be placed in bags or other formed containment. The sand must also be an acceptable mineralogy and grain size when compared to the sediments found in the beach/dune system. The use of clay or clayey material is not allowed.

You may repair your septic system if the Texas Commission on Environmental Quality, Texas Department of Health, or a local official has determined that your septic system does not pose a public health and safety risk. Reconnection to water, sewer, electricity, and gas should be coordinated through the local government and must be made in accordance with other applicable laws and local ordinances.

- **What's not allowed in areas seaward of 200 ft from MLT?**
 1. You can't repair, replace, or construct a slab of concrete, fibercrete, or other impervious material.

2. You can't construct a room addition or increase the size of the structure's footprint or construct a new structure.
 3. You can't place materials other than beach quality sand on the public beach.
- **What if the 200-foot line goes through my house?**
If the 200-foot line goes through any portion of your house, then your entire house will be limited to only the activities allowed under [31 TAC § 15.11](#). Some construction in areas landward of the public beach is allowed but must comply with the local government's Beach Access & Dune Protection Plan and state rules (see list of allowable construction activities above).
 - **May a property owner obtain a permit to build a new habitable structure, if a portion of the footprint is located seaward of the 200-foot line?**
No, new construction of a habitable structure may only be permitted completely landward of the public beach easement, or 200 feet from mean low tide, whichever is farther landward.
 - **May I use my own survey to determine the location of 200 feet from mean low tide?**
Yes, you may have an independent survey performed by a licensed state land surveyor. The local government and GLO will consider such surveys on a case by case basis. All surveys must be submitted to the local government and reviewed by the General Land Office.
 - **My bulkhead, retaining wall or geotube is exposed and damaged. Can I repair it?**
No. Constructing, repairing, or maintaining a bulkhead, retaining wall erosion response structure or shore protection project on the public beach is prohibited.
 - **May dunes be restored seaward of the 200-foot line?**
Only in select areas. Dune restoration projects may be constructed no farther seaward than 20 feet from the post-storm landward boundary of the public beach (which is 180 feet from mean low tide) as long as public beach access is not impacted. Other rules relating to dune restoration in [31 TAC § 15.7\(e\)](#) also apply.
 - **I previously received an emergency authorization to restore dunes seaward of the 200-foot line; will the GLO require me to move that restored dune?**
No, the GLO will not require you to move a restored dune as long as the dune restoration work was completed in accordance with the emergency rules and the authorization from the local government and does not interfere with the public's use of the beach.
 - **If I restored dunes on the public beach previously or want to restore them in the future, will this change the location of the line of vegetation?**
No, the line of vegetation will be set at 200 feet from Mean Low Tide until the Order expires.
 - **Where is the line of vegetation in areas where this Order does not apply?**
The GLO will determine the location of the line of vegetation using its normal criteria under the Open Beaches Act in areas where this Order does not apply. The location of the natural line of

vegetation will be used to determine the landward boundary of the public beach easement, as determined by the GLO.

- **I don't agree with the 200-foot line, what is my recourse?**

The GLO has the authority to set the "line of vegetation," which is the statutory landward boundary of the public beach. The Order is a temporary measure designed to set the landward extent of the public beach following the impacts of a meteorological event. The line is based on the best information and technology available to the GLO. However, you may hire your own licensed state land surveyor to determine the location of the 200-foot line and submit their survey with the construction application to the local government.

- **How do I get a permit to perform construction or dune restoration?**

Apply to your local government for a regular Beachfront Construction Certificate & Dune Protection Permit for all construction projects. The normal permitting process includes a local review of the application and a ten-day review period for the GLO to comment on the proposed small-scale permit application. The local government that issues Beachfront Construction Certificates and Dune Protection Permits in the affected areas are:

City of Galveston: 409-797-3660

Village of Surfside Beach: 979-233-1531