

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: June 29, 2022

Agenda Item: 2A	Prepared by: Chris Noury, City Attorney
Agenda Section: Business: Ordinance. Second Reading	Date: June 27, 2022
Subject: An ordinance to rescind the existing language of Section 5-24 titled Placing Obstructions on the Beach and replace with the language in the attached ordinance.	Division: Legal

Attached is the proposed ordinance to rescind the existing language of Section 5-24 Placing Obstructions on the Beach. The proposed ordinance also includes the new language for Section 5-24 as indicated in the highlighted text.

Recommended Action:

Approve the ordinance on second reading

Reviewed by City Manager		Reviewed by City Attorney
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Council Action:
Motion By _____ 2nd By _____ To _____

**AN ORDINANCE TO RESCIND THE EXISTING LANGUAGE OF SECTION 5-24 TITLED PLACING
OBSTRUCTIONS ON THE BEACH AND TO REPLACE WITH THE LANGUAGE AS
INDICATED BELOW**

Sec. 5-24. Placing obstructions on the beach.

- (a) *Findings.* The council of the city has made the following findings:
- (1) That the public beach is a public area, which is open and accessible to all persons;
 - (2) That the public beach is maintained and subjected to reasonable regulation by the city in order to promote the health, safety, welfare and morals of all persons using the beach;
 - (3) That the public beach provides a unique area for all persons to pursue peaceful relaxation and quiet enjoyment in a reasonable manner;
 - (4) That the public beach has been and continues to be a unique public recreation area, different in respect to all other public areas within the municipality;
 - (5) That it is desirable and necessary to preserve the unique nature of the public beaches and to protect all persons who utilize the beaches from harm, undue annoyance, disturbance and inconvenience.
- (b) *Hours.* Except for municipal beach service equipment or equipment authorized by franchise agreement, it shall be unlawful between the hours of 7:00 pm and 8:00 am for any person to place upon, set upon or leave upon any equipment or other items on the public beach including but not limited to beach umbrellas or other shading devices, floats, beach chairs, lounge chairs, life rafts, etc. (collectively, Beach Wares). Regardless of the hours set forth herein and except for municipal beach service equipment or equipment authorized by franchise agreement, no person or company who for a fee or service as part of, or incidental to, its business operations for the sale, rental, lease, use or delivery of Beach Wares shall deliver to, place upon, set upon, or leave upon the public beach any Beach Wares.
- (c) *Placement of shading devices on the beach from May 15 through September 15.* Other than umbrellas with a center pole no greater than seven (7) feet six (6) inches in height and with a circular shade no greater than nine (9) feet in diameter and shading devices no larger than thirty-six (36) inches in height by thirty-six (36) inches in width and thirty-six (36) inches in depth used to provide shade to persons eighteen (18) months of age or younger, all shading devices including but not limited to: tents, tarps, cabanas, pavilions, sports-brellas or devices similar to sports-brellas, or any material mounted on supports are prohibited from being placed on the beach from May 15 through September 15. An umbrella is defined as a collapsible circular shade consisting of a natural or synthetic fabric stretched over hinged ribs radiating from a center pole without grounding lines or ropes.
- (d) No umbrellas or other shading devices may be placed within the emergency vehicle access lane which is the area approximately twenty (20) to twenty-five (25) feet seaward of the dune line and parallel to the shoreline which will be marked by city trash cans, pylons and/or flags. The director of the department of public safety or his/her designee shall have the authority to establish unobstructed emergency access lanes perpendicular to the shoreline for emergency vehicles, personnel and/or other emergency equipment to access the surf or other areas of the beach in the event of an emergency. Emergency access lanes perpendicular to the shoreline shall remain open and unobstructed until the director of public safety or his designee determines the emergency access lane is no longer necessary.
- (e) *Removal, disposal.* Umbrellas or other items/equipment remaining on the beach between the hours of 7:00 pm and 8:00 am will be removed from the beach. All items removed from the beach will be marked with the
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date of removal and maintained in the city's storage yard for a period of thirty (30) days from the date of removal. If the item has not been reclaimed within thirty (30) days from the date of removal, the item shall be deemed forfeited and shall be disposed of in a manner to be determined by the city manager or his/her designee, including but not limited to, selling the forfeited item(s) at auction, donating the item(s) for charitable purposes or disposing of the item(s) as defuse. A forty-dollar (\$40.00) administrative fee shall be charged for items claimed from the storage yard.

- (f) *Sand fencing and dune walkovers.* Sand fences and dune walkovers have been constructed to rebuild and preserve the sand dunes; sand dunes serve as barriers that aid in protecting life and property during hurricanes and or other tidal events. It is prohibited to move, alter, obstruct, interfere with the sand fencing including but not limited to, chaining items to, locking items to, or connecting items to a sand fence. In addition, no items may be placed, put, chained to, locked to or stored under any dune walkover located on the public beach.
- (g) *Other obstructions.* It shall be unlawful to build or erect any fence or other obstruction on the public beach so as to obstruct or impede the free use of the public beach or to interfere with or obstruct any maintenance operation of the beach.
- (h) *Penalty.* Violations of this section are punishable as provided in section 1-6.

(Ord. No. 07-32, § 1, 7-9-07; Ord. No. 10-22, 12-12-10; Ord. No. 12-21, 11-5-12; Ord. No. 14-02, 3-17-14; Ord. No. 16-01, 2-1-16; Ord. No. 16-49, § 1, 3-6-17; Ord. No. 21-02, § 2, 3-1-21)

DONE, RATIFIED AND PASSED THIS _____ DAY OF _____, 2022.

ATTEST:

Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

City Attorney

FIRST READING: 6.22.2022

SECOND READING: 6.29.2022

REVIEWED:

City Manager

ORDINANCE: 22-25
