

ORDINANCE NO. 548

AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, CREATING A NEW CHAPTER 7.1 (REGULATING DUNES), SATELLITE BEACH CITY CODE; DECLARING THE MAINTENANCE OF UNVEGETATED AREAS ON THE DUNE OR BEACH SYSTEM TO BE NUISANCES; DECLARING THE TRAVERSING OR, CROSSING THE CREST OF ANY DUNE WITHIN THE CITY OF SATELLITE BEACH TO BE UNLAWFUL UNLESS OVER A DUNE CROSSOVER APPROVED BY THE CITY AND/OR THE STATE OF FLORIDA, DEPARTMENT OF NATURAL RESOURCES; PROVIDING DEFINITIONS; PROVIDING PENALTIES FOR VIOLATION; AMENDING SECTION 13-8(a) REGARDING JURISDICTION OF THE CODE ENFORCEMENT BOARD; PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is recognized that a vegetated dune/beach system provides the first line of defense against any storm surge, thereby protecting the inhabitants of beach communities; and

WHEREAS, unvegetated areas of the beach and dune create areas that can be easily breached by storm surges, subjecting residents of beach communities to flood and water damage that would not otherwise occur; and

WHEREAS, the unfettered crossing of, walking upon or along or transversing the dune by pedestrian and other traffic damages and kills dune vegetation to the point of leaving the dune line unprotected in said areas; and

WHEREAS, the dune crossovers provide ready access to the beach for pedestrian and other traffic with a minimal impact upon the vegetation located on the dune line; and

WHEREAS, the City Council for the City of Satellite Beach hereby finds it to be in the best interests of the general health, safety and welfare of the residents of the City to have a vegetated beach/dune system;

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA as follows:

SECTION 1. The Satellite Beach City Code is hereby amended by adding a new chapter to be numbered Chapter 7.1, which said Chapter shall read as follows:

CHAPTER 7.1

DUNE PRESERVATION

ARTICLE I. MAINTAINING DUNE VEGETATION

Section 7.1-1. DECLARATION OF NUISANCE.

The maintenance or allowance of any portion of the dune by any person within the City of Satellite Beach without vegetation is hereby declared to be a nuisance.

Section 7.1-2. DEFINITIONS.

(a) "Beach" shall mean the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation (usually the effective limit of storm waves). Unless otherwise specified, the seaward limit of a beach is the mean low water line. "Beach" is alternatively termed the "shore".

(b) "Crest" shall mean the highest and/or most seaward high point of land east of the coastal construction control line as established by Section 161.053, Florida Statutes (1989).

(c) "Dune" shall mean that portion of land between a line fifty (50) feet west of the crest and a line twenty (20) feet east of the crest, or the farthest eastward extent of vegetation, whichever is greater. In the case of beach abutted by a seawall, riprap or other artificial barrier, the dune shall be deemed to extend twenty (20) feet seaward from the foot of any seawall, riprap or other artificial barrier, or the farthest eastward extent of vegetation, whichever is greater.

(d) "Vegetation" shall mean ground cover or vines as set forth in the approved list of ground cover and vines found in Chapter 6, Land Development Regulations.

Section 7.1-3. PENALTY.

Any person alleged to be in violation of the provisions of Section 1 of this Chapter shall be subject to the procedures and penalties for code enforcement under Chapter 13, Satellite Beach City Code.

ARTICLE II. CROSSING DUNES; DUNE CROSSOVERS.

Section 7.1-11.

No person shall, by any means of locomotion, traverse or cross the crest of any dune within the City of Satellite Beach, except a person may cross a dune over and across a dune crossover constructed pursuant to the specifications and approval of the City of Satellite Beach and any applicable state and county agencies for which a valid permit has been issued.

Section 7.1-12.

Any law enforcement officer is authorized to issue a citation to person or persons, when, based upon personal observations, that person or persons has committed a violation of Section 7.1-11 of this Chapter. A citation issued under this Section shall be in a form prescribed by the City and shall contain at a minimum:

- (a) the date and time of issuance;
- (b) the name and address of the person to whom the citation is issued;
- (c) the date and time the violation was committed;
- (d) the facts constituting personal observation and reasonable cause for finding a violation;
- (e) the number and section of this Chapter;
- (f) the name and authority of the officer;
- (g) the procedure for the person to follow in order to pay the penalty or to contest the citation;
- (h) the applicable civil penalty if the person elects to contest the citation;
- (i) the applicable civil penalty if the person elects not to contest the citation;
- (j) a conspicuous statement that if a person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that in such case judgment may be entered against the person for an amount up to the maximum civil penalty.

Section 7.1-13

(a) Any person who willfully refuses to sign and accept a citation issued by a police officer under this Article shall be guilty of a violation of this Chapter and upon conviction thereof, subject to imprisonment for a period of not more than six months, or a fine not greater than \$500.00, or both.

(b) Fines for violating Section 7.1-11 shall be pursuant to that schedule approved by resolution from time to time by the City Council.

ARTICLE III. GENERAL PROVISIONS

Section 7.1-21.

The provisions of this Article are additional and supplemental means for protecting dunes and beaches.

Section 7.1-22

Any fines collected pursuant to this Chapter shall be placed as a separate line item for purposes of funding renourishment projects of the dune within the City.

SECTION 2. Section 13-8 of the Satellite Beach City Code is hereby amended to include a new subsection (11) to read as follows:

- (11) Article I, Chapter 7.1, Maintaining Dune Vegetation.

Subsections (11) through (25) are hereby renumbered as (12) through (26).

SECTION 3. Severability Clause. In the event a court of competent jurisdiction shall hold or determine that any part of this Ordinance is invalid or unconstitutional, the remainder of the Ordinance shall not be affected thereby, and it will be presumed that the City Council for the City of Satellite Beach did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the City Council would have enacted the remainder of this Ordinance without said invalid and unconstitutional provision thereby causing said remainder to remain in full force and effect.

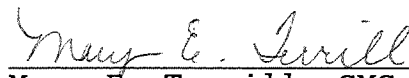
SECTION 4. Repeal of Inconsistent Provisions. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. Effective Date. This Ordinance shall become effective immediately upon its adoption.

SECTION 6. This Ordinance was duly passed on first reading at a regular meeting of the City Council on the 4th day of December, 1991, and adopted on the second and final reading at a regular meeting of the City Council on the 18th day of December, 1991.

  
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Linda Tisdale, Mayor

ATTEST:

  
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Mary E. Terrill, CMC, City Clerk