

ORDINANCE NO. 2014-05

AN ORDINANCE AMENDING THE CITY OF PORT ARANSAS CODE OF ORDINANCES BY ADDING A NEW CHAPTER 27 “PUBLIC BEACH”, ARTICLE III. “TRAFFIC” DIVISION 1. “IN GENERAL” BY DESIGNATING SPEED LIMIT, PUBLIC ROADWAY, PARKING AREAS AND SIGNAGE CRITERIA; AND PROHIBITING OFF-HIGHWAY VEHICLES; DIVISION 2. “VEHICLE BEACH PERMITS & BEACH USER FEES” BY SETTING PERMITS AND FEES, AND ENUMERATING ALLOWABLE USES; DIVISION 3. “BEACH CLOSURES” BY AUTHORIZING BEACH USE, ACCESS AND CLOSURES FOR PUBLIC HEALTH AND SAFETY; PROVIDING FOR THE VALIDITY OF SAID ORDINANCE; REPEALING ALL PRIOR ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ARANSAS, NUECES COUNTY, STATE OF TEXAS

SECTION 1. ADDITION

That Chapter 27 “Public Beach”, Article III. “Traffic”, Division 1. “In General” is hereby added to wit:

Article III. “Traffic” Division 1. “In General”

Section 27-400. Public avenue and speed designations.

- (a) *Public avenue designated.* The city beach is hereby set apart, designated and declared to be a public avenue owned by the state and as such subject to all the regulations and ordinances of the city and the state relating to streets.
- (b) *Speed designated.* No person shall operate or cause to be operated any motor vehicle at a speed in excess of fifteen (15) miles per hour upon the city beach.

Section 27-401. Main traveled roadways established.

- (a) The city may erect a line of twelve-inch diameter posts on the beach from the Horace Caldwell Pier to the city limits immediately south of Access Road 1 and on any other beach areas within the city limits. Said line of posts shall be parallel to the vegetation line adjacent to the beach. The distance from the vegetation line to the posts shall be approximately forty-five (45) feet and such posts shall be placed approximately two hundred (200) to two hundred thirty (230) feet apart along the line. Such line of posts shall be called the barrel posts because they shall be used to hang trash barrels. Where this line of posts stands alone, the main traveled roadway shall lie to the west of the line providing two-way traffic for both northbound and southbound vehicles. Vehicles shall be permitted to leave the roadway for the purpose of driving to the designated parking area which shall lie to the east of this line of posts.

- (b) The city may erect additional lines of posts parallel to the first most westerly line of posts, described above. The purpose of these additional lines of posts shall be to establish divided lines of traffic, define parking areas and create protected pedestrian areas which are free from vehicular traffic.
1. When a beach width of a minimum of two hundred fifty (250) feet is available, such distance measured as the distance between the line of vegetation and the line of mean low tide, the main traveled roadway may be comprised of four (4) lanes of traffic and shall be established in the following manner. A line of six-inch diameter posts shall be placed twenty (20) feet east of the first line of posts which shall define a diagonal parking area for passenger vehicles. Such line of posts shall be placed approximately five (5) feet apart. West of where this line of posts is established the flow of traffic shall be southbound. A third line of twelve-inch diameter posts shall be placed forty (40) feet east of the second line of posts. Such line of posts shall be placed approximately two hundred (200) to two hundred thirty (230) feet apart. This line of posts shall also be known as the barrel post line. West of where this line of posts is established the flow of traffic shall be northbound. A fourth line of six-inch diameter posts shall be established thirty (30) feet east of the third row of posts and shall define a diagonal parking area for passenger vehicles, RVs and travel trailers to the west of said line and a vehicle free protected pedestrian area to the east. Such line of posts shall be placed approximately five (5) feet apart.
 2. In areas where the distance between the line of vegetation and line of mean low tide is less than two-hundred fifty (250) feet, two (2) lanes of traffic may be established in the following manner. Two-way traffic shall be established between the vegetation line and the line of twelve-inch diameter posts forty-five (45) feet to the east of the vegetation line. Such line of posts shall be placed approximately two hundred (200) to two hundred thirty (230) feet apart. This line of posts shall also be known as the barrel post line. An additional line of six-inch diameter posts shall be established thirty (30) feet to the east of this line of posts and shall define a diagonal parking area for passenger vehicles, RVs and travel trailers to the west of said line and a vehicle free protected pedestrian area to the east. Such line of posts shall be placed approximately five (5) feet apart.
- (c) The city manager is authorized to make adjustments to routing of traffic along the entire beach road based on traffic and/or beach conditions and to control access between lanes of the divided portions of the traveled roadways. The city manager is further authorized to determine when additional traffic control posts are required and in what manner they are to be installed in accordance with this Chapter. Such determination to be based on an increase in the numbers of pedestrian users of a specific stretch of beach.
- (d) Upon request of a property owner who wants traffic control posts installed prior to the time when, in the opinion of the city, use of the beach justifies such installation, the city will install, repair, replace and maintain such posts and required traffic control signs at the cost and expense of the property owner. Such posts shall be installed, repaired, replaced and maintained in accordance with policy established above. Any such installation, replacement, repair, and maintenance shall also include the necessary traffic control signs

and devices. Prior to installation a plan of the requested installation shall be submitted to the city for review and approval.

Section 27-402. Designation of accessways, parking areas, and beaches closed to motor vehicles.

- (1) *Accessways.* Where vehicles are prohibited from driving on and along the beach, accessways providing both ingress and egress shall be no farther apart than one-half (½) mile.
- (2) *Parking areas.* If on beach parking is eliminated adjacent off-beach parking will be provided and shall accommodate one car for each fifteen (15) linear feet of beach.
- (3) *Free beach access.* The city shall maintain free public beach access by providing areas where no fee is charged for parking on or off the beach and for pedestrian access.
- (4) *Access for disabled persons.* The city shall establish, preserve, and enhance access for disabled persons.
- (5) *Identification of fee and non-fee areas.* The city does conspicuously mark and shall identify both fee and non-fee beach areas with signs that clearly indicate the location of both the fee and non-fee areas and that identify the city as the entity collecting the fee.

Section 27-403. Abandonments of public access or parking areas prohibited.

The city shall not abandon, relinquish, or convey any right, title, easement, right-of-way, street, path, or other interest that provides existing or potential beach access or parking area, unless an equivalent or better beach access or parking area is first provided by the city consistent with its beach access plan.

Section 27-404. Traffic restricted to the main traveled roadway; applicability.

- (a) No person shall drive or operate a motor vehicle on any portion of the beach other than on the main traveled roadway of such beach.
- (b) This shall not apply to the driver of any vehicle while proceeding from the main traveled roadway on the beach toward that point fifty (50) feet from the water's edge designated for the purpose of parking such vehicle or returning therefrom. In those areas where rows of posts define designated diagonal parking areas removal of barriers which restrict access to "emergency vehicles only" or removal of posts to move vehicle closer than the distance established by the posts is prohibited.
- (c) This shall not apply to the driver of any emergency vehicle while proceeding to any other area of the beach for the purpose of assisting in an emergency or in returning therefrom.
- (d) Vehicles are prohibited from traveling on or parking on the sand dunes.

Section 27-405. Off-Highway vehicles prohibited.

- (a) In the interest of public safety for all who frequent City beach areas and for the protection and preservation of Coastal Dune vegetation, the City, no person shall operate an off-highway recreational vehicle on any beach within the corporate limits of the City.

- (b) A recreational off-highway vehicle owned by the state, county, university, or municipality and operated in compliance with 663.037, Transportation Code is exempt from this prohibition.

Section 27-406. Traffic signs to be erected.

- (a) The city shall cause to be designed, made and posted, beach and traffic regulation and speed limit signs indicting the regulations prescribed in this article. Such signs shall be in compliance with the current provisions of the "Texas Manual on Traffic Control Devices for Streets and Highways," stating the applicable speed limits and motor vehicle traffic regulations or prohibitions and the applicable beach regulations or prohibitions.
- (b) Signs shall be erected on the beach to indicate the area requiring a vehicle beach permit and the area of free parking. In the area where permits are required sufficient signs shall be provided to inform visitors who do not see the sign placed at all entrances to the beach.

Section 27-407. Miscellaneous Signage

No person shall display or cause to be displayed on or adjacent to any public beach any sign, marker, or warning, or make or cause to be made any written or oral communication or other representation that the public beach, or a public accessway to and from the public beach, is private property not subject to use by the public. This provision does not prohibit signs or other written or oral communications that areas landward of the vegetation line and accessways thereon, other than public accessways, are private property.

Section 27-408 through Section 27-449 reserved for future use.

SECTION 2. ADDITION

That Chapter 27 "Public Beach", Article III. "Traffic", Division 2. "Vehicle Beach Permits" is hereby added to wit:

Article III. "Traffic"
Division 2. "Vehicle Beach Permits, Beach User Fees"

Section 27-450. Vehicle beach permit required.

- (a) No person shall park a motor vehicle upon a designated parking area of the city beach without a valid city beach parking permit securely attached to the lower right passenger side of the front windshield of the vehicle.
- (b) Each permit shall expire on December 31 of the same calendar year in which it is issued.
- (c) From the month of October through the month of December, vehicle beach permits for the next year may be issued by the city for the normal permit fee plus a fee to be set by city council by resolution plus tax. Such permits will be valid from the date sold through December 31 of the following year.

- (d) Permits shall be issued by the city or its authorized agent upon payment of a fee to be set by city council by resolution plus tax.
- (e) No permit shall be required to park in the county park or in the area of the city-managed beach between mile marker 52 and mile marker 58. This shall be designated a free parking zone.

Section 27-451. Use of vehicle permit fund.

All funds derived from the fee requirement of this Chapter shall be utilized exclusively for the following purposes:

1. To pay the costs of administering requirements of this Chapter;
2. For cleaning and maintenance of the public beach;
3. For construction, maintenance, replacement and repair of facilities on the beach provided for the use and convenience of the public and traffic control or road signals, signs, devices or structures on the beach;
4. For the payment of all costs directly related to management; and
5. For public safety on the beach.

Section 27-452. Failure to have vehicle permit.

There is hereby established a fine of fifty dollars (\$50.00) for failure to comply with this permit requirement.

Section 27-453. Beach user fees.

- (a) *Eligibility.* The city shall not amend a beach user fee unless it has a state approved beach access plan. The city generates its user fee revenues from the sale of beach parking permits.
- (b) *Reciprocity of fees.* The city has established and will maintain free parking areas to beach users with permits for areas other than Port Aransas access to and use of the public beach.
- (c) *Use of fee revenue.* The city shall not impose a fee or charge for the exercise of the public right of access to and from public beaches. The city may charge beach users a fee in exchange for providing services to beach users in general. The city may only impose a beach user fee if the fee is reasonable taking into account the cost to the city of providing public services and facilities directly related to the public beach. A reasonable fee is one that recovers the cost of providing and maintaining beach-related services. In addition, any fee collected for off-beach parking to provide access to and from the public beach is considered a beach user fee. For each fiscal year, the city shall not spend more than ten (10%) percent of beach user fee revenues on reasonable administrative costs directly related to beach-related services. The city shall send quarterly reports to the GLO stating the amount of beach user fee revenues collected and itemizing how beach user fee revenues are expended. All funds derived from the fee shall be utilized exclusively for the following purposes:
 1. To pay the costs of administering requirements of this article;
 2. for cleaning and maintenance of the public beach;

3. For construction, maintenance, replacement and repair of facilities on the beach provided for the use and convenience of the public and traffic control or road signals, signs, devices or structures on the beach;
 4. For the payment of all costs directly related to management; and
 5. for public safety on the beach. Beach user fees may only be spent on beach-related services.
- (d) *Beach user fee accounts.* The city shall follow the following methods for administering beach user fee accounts:
1. Beach user fee revenues shall be maintained and accounted for so that fee collections may be directly traced to expenditures on beach-related services. Beach user fee revenues shall not be commingled with any other funds and shall be maintained in separate bank accounts.
 2. Beach user fee revenues shall be maintained in a separate account and documented in a separate financial statement for each beach user fee. Beach user fee revenue account balances and expenditures shall be documented according to generally accepted accounting principles.

Section 27-453 through Section 27-479 Reserve for Future Use

SECTION 3. ADDITION

That Chapter 27 “Public Beach”, Article III. “Traffic”, Division 3. “Beach Closures” is hereby added to wit:

Article III. “Traffic” Division 3. “Beach Closures”

Section 27-480. Public Necessity

- (a) The city may by order close areas of the public beach in cases of public necessity. "Public necessity" shall be limited to environmental emergencies, public health and safety emergencies, and government entities performance of government functions whose importance justifies the restriction of public access. The city shall limit the closure to the smallest possible area and the shortest possible time necessary.
- (b) This order does not restrict the ability of any peace officer or other official in any extraordinary emergency to protect safety or property by exercising powers or carrying out duties conferred on the officer under generally applicable law.

Section 27-481. Special Event

The city may by order close part of the public beach for a maximum of three (3) days each year to allow a nonprofit organization to hold an event on the beach to which the public is invited and to which the organization charges no more than a nominal admission fee.

Section 27-482. Preservation and enhancement of public beach use and access.

- (a) The Port Aransas plan currently allows vehicles to drive and park along all or a portion of the public beach. To this extent, the city is not providing in this plan specific requirements or conditions for beachfront construction that would preserve or enhance public beach use and access upon closure of the beach to vehicles, e.g., owner-dedicated off-beach parking areas and access points and similar measures contemplated by 31 Texas Administrative Code section 15.5 and section 15.7. The city acknowledges that allowing beachfront construction to proceed without reservation or dedication for alternate public access effectively commits the city to allowing continued driving and parking on the beach, at least until such time as alternative public access is provided, as through subsequent dedications by owners, government purchase or other appropriate measures. For the purposes of this plan, beach access and use is presumed to be preserved if the following criteria are met:
1. Parking on or adjacent to the beach is adequate to accommodate one (1) car for each fifteen (15) linear feet of beach.
 2. Where vehicles are prohibited from driving on and along the beach, ingress/egress accessways are no farther apart than one-half (½) mile.
 3. Signs are posted which conspicuously explain the nature and extent of vehicular controls, parking areas, and access points.
- (b) This provision does not apply to any existing city traffic regulations enacted before the effective date of Title A, Subchapter 31, and the former law is continued in effect until the regulations are amended or changed in whole or in part. New or amended vehicular traffic regulations enacted for public safety, such as establishing speed limits and pedestrian rights-of-way, are exempt from the certification procedure but must nevertheless be consistent with the Open Beaches Act and Title A, Subchapter 31.

Section 27-483 through Section 499 Reserved for Future Use

SECTION 2. EFFECTIVE DATE

As provided by Article III, Section 12.C. and by Article XII, Section 2 of the Charter of the City of Port Aransas, this ordinance shall be effective upon adoption and, in addition, if any penalty, fine or forfeiture is imposed by this ordinance, then this ordinance shall be effective only after publication of this ordinance in its entirety or in summary form once in the official newspaper of the City of Port Aransas.

SECTION 3. READING

As provided by Article III, Section 13 and Article III, Section 12(b) of the Charter of the City of Port Aransas, this ordinance or the caption of it shall be read at three city council meetings with at least one week elapsing between each reading.

SECTION 4. SEVERANCE.

If any part of this ordinance is invalid or void or is declared to be so, then said part shall be severed from the balance of this ordinance and said invalidity shall not affect the balance of this ordinance, the balance of the ordinance to be read as if said invalid or void portion thereof were not included.

SECTION 5. PUBLICATION.

As provided by Article III, Section 12 (c), this ordinance shall be published one time in the official newspaper of the City of Port Aransas, Nueces County, Texas, which publication shall contain the caption of this ordinance stating in substance the purpose of same.

PASSED, ORDAINED, APPROVED and ADOPTED this the 6th day of FEBRUARY, 2014.



CITY OF PORT ARANSAS, TEXAS

Keith McMullin, Mayor

ATTEST:

Irma G. Parker, City Secretary

First Reading: December 19, 2013

Second Reading: January 16, 2014

Third Reading: February 6, 2014