

ORDINANCE NO. 2023-05

AN ORDINANCE OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA RELATING TO PROVIDING A SECTION OF THE BEACH ON WHICH DOGS ARE PERMITTED; MAKING FINDINGS; ADDING SECTION 8-5(d), TOWN OF INDIALANTIC CODE OF ORDINANCES; PROVIDING A SECTION OF THE BEACH NEAR THE WATSON DRIVE CROSSOVER THAT PERMITS DOGS ON THE BEACH ON A PERMANENT BASIS; PROVIDING A SEVERABILITY/ INTERPRETATION CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council has previously determined that in the public interest to permit, as a pilot or test project, dogs shall be permitted on a limited portion of the beach (to the North of the Watson Drive Dune Crossover) under certain conditions; and

WHEREAS, the purpose of the test program was to determine whether citizens would comply with the program, removing feces, permitting dogs on the beach only during limited times of day, and assuring that no citizen would be attacked by a dog on the beach; and

WHEREAS, the test program is set to expires in August of 2023, the result of which would be to prohibit dogs on the beach at the Watson Drive dune crossover; and

WHEREAS, the test program was successful, and the Town Manager has reported that there have been no serious problems with the operation of the dog friendly beach program; and

WHEREAS, the Town Council finds that it is in promotion of the public health, safety, welfare, and aesthetics of the Town by permitting on a permanent basis the dog friendly beach program.

NOW, THEREFORE, BE IT ENACTED BY THE TOWN OF INDIALANTIC, FLORIDA:

SECTION 1. Recitals. Each and all of the recitals ("WHEREAS" clauses) are hereby incorporated herein.

SECTION 2. That Section 8-5(d) of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 8-5. - Animal access.**

(d) Dogs permitted on certain sections of the beach.

45 (1) Consistent with section 6-8 of this code, dogs may be permitted on  
46 the following described section of the beach from the Watson Drive beach pedestrian  
47 dune crossover Eastward to the mean high water line of the Atlantic Ocean; thence  
48 generally North/Northwestward along said mean high water line to the corporate  
49 municipal limits of the town; thence Westward along said corporate municipal limits to  
50 seaward side of the beach dunes; thence South/Southeastward to the Watson Drive  
51 beach pedestrian dune crossover (hereinafter: the "dog friendly beach area"). Dogs  
52 shall only be permitted in the dog friendly beach area from sunrise until two hours after  
53 sunrise and from two hours before sunset until sunset. All dogs must be leashed.  
54 Notwithstanding the foregoing, no dangerous dog, no aggressive dog, and no dog  
55 during the pendency of an investigation and resolution of any hearings related to  
56 classification of a dog as an aggressive dog or a dangerous dog, shall be permitted on  
57 any town beach, or on the dog friendly beach area, at any time.

58 (2) Regulations relating to permitting dogs on the dog friendly beach  
59 area may be promulgated from time to time for a period not exceeding 60 consecutive  
60 days by the town manager or by resolution of the town council. Violation of any such  
61 regulation adopted shall be deemed a violation of this code.

62 (3) Whenever an animal defecates on the beach, the owner, or person  
63 having temporary custody or control, of the dog while on the beach shall immediately  
64 remove and properly dispose of the feces in a sanitary manner. As utilized in this  
65 subsection, the term "immediately" means immediately after the dog has defecated on  
66 the beach. Failure of the owner, or person having temporary custody or control, of the  
67 dog that has defecated on the beach to remove and properly dispose of the feces in a  
68 sanitary manner, shall constitute a violation of the code and the creation of a public  
69 nuisance.

70 (4) The town manager shall post signage conspicuously at the Watson  
71 Drive beach crossover, on the beach at the South end of the dog friendly beach area,  
72 and on the beach immediately adjacent to the town municipal corporate limits. Said  
73 signage shall provide:

74 That this is a dog friendly beach;

75 The boundaries of the dog friendly beach area;

76 That the dog friendly beach area permits dogs on the beach from sunrise until  
77 two hours after sunrise and from two hours before sunset until sunset;

78 That no dangerous or aggressive dog as described in section 8-5(a), town code  
79 of ordinances, is permitted on any town beach at any time;

80 That all dogs must be on a leash at all times with the leash no more than 10 feet  
81 in length;

82 That the owner, or person having temporary custody or control, of the dog while  
83 on the beach shall immediately remove and properly dispose of the feces in a sanitary  
84 manner. That the term "immediately" means immediately after the dog has defecated  
85 on the beach;

86 That the owner, and the person having custody or control, of the dog while on the  
87 beach is liable for any damage to property or injury to any person or other animal;

88 That any person coming onto the dog friendly beach area, agrees that the town

89 shall not be liable for any damage to property or injury to any person or other animal;  
90 and

91 That it shall be a violation of the town code of ordinances to take a dog seaward  
92 of the mean high water mark.

93 (5) The town manager shall coordinate with the chief of police and the  
94 public works director to provide a regular schedule for enforcement of this code  
95 provision and to provide for assuring that the dog friendly beach area is cleaned of  
96 feces.

97 ~~(6) That this sub-section (d) is a test or pilot project so that the town~~  
98 ~~council may judge the effects of this sub-section (d). This sub-section (d) shall become~~  
99 ~~effective on February 1, 2022, and shall expire and be terminated on August 1, 2022,~~  
100 ~~unless extended.~~

### 101 SECTION 3. Severability Clause/Interpretation.

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103 (a) In the event that any term, provision, clause, sentence or section of  
104 this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly  
105 unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or  
106 unenforceability shall not affect any of the other or remaining terms, provisions, clauses,  
107 sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied  
108 as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did  
109 not exist.

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111 (b) That in interpreting this Ordinance, underlined words indicate  
112 additions to existing text, and stricken through words include deletions from existing text.  
113 Asterisks ( \* \* \* ) indicate a deletion from the Ordinance of text, which exists in the Code  
114 of Ordinances. It is intended that the text in the Code of Ordinances denoted by the  
115 asterisks and not set forth in this Ordinance shall remain unchanged from the language  
116 existing prior to adoption of this Ordinance.


### 117 SECTION 4. Effective Date. This Ordinance shall become effective upon adoption.

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119 PASSED by the Town Council of the Town of Indialantic on first reading on the  
120 14<sup>th</sup> day of June, 2023, and ADOPTED by the Town Council of the Town of Indialantic,  
121 Florida on final reading on the 12<sup>th</sup> day of July, 2023.

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TOWN OF INDIALANTIC

  
Mark McDermott, Mayor

ATTEST:   
Mollie Carr, Interim Town Clerk

