

ORDINANCE 2018-02

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING CHAPTER 90, ARTICLE II, BEACHES, OF THE CODE OF ORDINANCES; CREATING SECTION 90-33 PERSONAL WATERCRAFT REGULATIONS; CREATING SECTION 90-34 BEACH CLOSURES AND RESTRICTIONS; CREATING SECTION 90-35 SWIMMING REGULATIONS; CREATING SECTION 90-36 FLOTATION DEVICES; CREATING SECTION 90-37 SAFETY DEVICES; CREATING SECTION 90-38 SAILBOATS AND SAILBOARDS; CREATING SECTION 90-39 LAUNCHING PERSONAL WATERCRAFT AND BOATS FROM BEACHES; CREATING SECTION 90-40 PROHIBITING OPEN FIRES; AMENDING SECTION 90-45 REQUIRING DOGS BE UNDER CONTROL; AMENDING SECTION 90-46 RESTRICTING FISHING NEAR OCEAN RESCUE TOWERS; AMENDING SECTION 90-47 PROHIBITING PARKING NEAR OCEAN RESCUE TOWERS; AMENDING SECTION 90-48 BY MODIFYING THE DESIGNATED PARKING AREA FOR VEHICLES ON THE BEACH AT THE SADLER ROAD ACCESS BY ADJUSTING THE NORTH AND SOUTH BOUNDARIES TO INCLUDE 600 FEET OF PARKING; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, AS FOLLOWS:

SECTION 1. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 90-33, which section shall read as follows:

**Sec. 90-33. – Personal Watercraft Regulations.**

- (a) A “personal watercraft” means a vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.
- (b) Any person, except Ocean Rescue personnel (also known as “lifeguard”) or law enforcement officer when necessary to the performance of his/her duties, shall operate in the Atlantic Ocean or launch from the beach, a personal watercraft in the following manner:
  - 1) No closer than fifteen hundred (1,500) feet in either direction of the Ocean Rescue tower that is staffed with Ocean Rescue personnel;
  - 2) Not in a reckless, unsafe, or careless manner endangering life, limb, or property of any person (provided that the exceptions set forth above shall not, in any event, authorize unnecessary or unreasonable conduct);

- 3) Not in violation of the provisions of Florida Statutes, §327.65(2)(a)1 and 2, which is adopted as part of this article and incorporated in this section by reference;
- 4) The personal watercraft must meet the safety regulations and safety equipment requirements mandated by Florida Statutes, §327.50, which is adopted and incorporated herein by reference;
- 5) Each person riding on or being towed behind such vessel must be wearing a personal flotation device, other than an inflatable device, as approved by the United States Coast Guard and in accordance with Section 327.39(1), Fla. Stats.;
- 6) The person operating a personal watercraft equipped by the manufacturer with a lanyard type engine cut-off switch attachment must have such lanyard attached to his/her person, clothing, or personal flotation device as is appropriate for the speed of the craft;
- 7) The person operating any personal watercraft on the waters of this state and city shall not be under fourteen (14) years of age; and
- 8) A person born after the year specified in Section 327.395(1), Fla. Stats. may not operate a personal watercraft powered by a motor of 10 horsepower or greater, unless such person has in his/her possession aboard the personal watercraft, a photographic identification and a boater safety identification card issued by the Florida Fish and Wildlife Conservation Commission.

(b) Penalties.

(1) Any person who is found guilty of reckless operation of a personal watercraft shall be deemed to have committed a misdemeanor of the first degree punishable as provided in Florida Statutes, §§775.08 or 775.083.

(2) Any person who is the owner of a personal watercraft or any person having charge over or control of a personal watercraft, who authorizes or knowingly permits the personal watercraft to be operated by a person under fourteen (14) years of age or to be operated by any person who has not received instruction in the safe handling of personal watercraft in compliance with the rules established by the Florida Fish and Wildlife Conservation Commission, commits a misdemeanor of the second degree punishable as provided in Florida Statutes, §§775.082 or 775.083.

(3) Any person cited by a law enforcement officer for violation of the provisions of section 90-33(a)(1), (4), (5) or (6) shall be deemed to be charged with a non-criminal infraction and shall be issued a civil citation pursuant to Florida Statutes, §327.73.

SECTION 2. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 90-34, which section shall read as follows:

**Sec. 90-34. – Beach Closures and Restricted Use.**

The Fernandina Beach Police or Fernandina Beach Ocean Rescue personnel have the authority to temporarily close or restrict the use of the beach or ocean because of crowd conditions, presence of sharks, electrical storms, tides, currents, wind conditions, or other dangers to public safety. Ocean Rescue personnel and the Fernandina Beach Police may utilize all available means pursuant to this authority and may indicate the closure through signage, or other available means, or utilize the assistance of any other law enforcement agency.

SECTION 3. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 90-35, which section shall read as follows:

**Sec. 90-35. – Swimming.**

No person, except Ocean Rescue personnel or other person engaged in a rescue attempt, shall swim or bathe more than three hundred (300) feet perpendicular to the water's edge, or in an area designated exclusively for personal water craft, when personal water craft are present. Ocean Rescue personnel has the authority to order anyone violating this section out of the water as well as utilizing the assistance of a law enforcement officer.

SECTION 4. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 90-36, which section shall read as follows:

**Sec. 90-36. - Rafts, floats, and other flotation devices.**

No person shall utilize any raft, float, "boogie" board, belly board, or other flotation device of any description, except for a boat, surfboard, wind surf board, or sailboard, more than three hundred (300) feet from the water's edge. Ocean Rescue personnel has the authority to order anyone violating this section out of the water as well as utilizing the assistance of law enforcement.

SECTION 5. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 90-37, which section shall read as follows:

**Sec. 90-37. - Safety devices.**

Surfboards and/or boogie boards shall at all times while in the ocean be attached to the user, by a surf leash. A surf leash is a neoprene, rubber or other elastic cord not exceeding 12 feet in length, one end attached to the surf board and the other end to the ankle of the user. All other types of flotation devices, including rafts and floats, but excluding boats, wind surf boards, or sailboard, shall be equipped with safety ropes which shall extend around the perimeter of the flotation device and be securely fastened in such a manner as to be securely grasped by swimmers. None of the foregoing requirements shall pertain to wind surfboards or sail boards. Any Ocean Rescue personnel has the authority to order anyone violating this section out of the water as well as utilizing the assistance of law enforcement.

SECTION 6. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 90-38, which section shall read as follows:

**Sec. 90-38. - Sailboats.**

No person shall operate a sailboat closer than five hundred (500) feet from the water's edge, except to go to and from the shore by the most direct means possible in a safe and reasonable manner. Sailboats must be pulled west of the Ocean Rescue towers (also known as "lifeguard towers") while parked on the beach during daylight hours. Ocean Rescue personnel has the authority to order anyone violating this section out of the water as well as utilizing the assistance of law enforcement.

SECTION 7. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 90-39, which section shall read as follows:

**Sec. 90-39. - Personal water craft and boats.**

(a) No person, except Ocean Rescue personnel or law enforcement officer, shall operate in the ocean or launch from the beach a personal water craft, except on that portion of the ocean or beach, no closer than fifteen hundred (1,500) feet in either direction of the Ocean Rescue tower.

(b) No person shall operate a personal water craft or boat closer than five hundred (500) feet from the water's edge, except to go to and from the shore by the most direct means possible at idle speed.

(c) Penalties for violation of this section shall be in accordance with Section 1-12 of this Code of Ordinances, including but not limited to fines up to \$500 and/or up to 60 days in county jail.

SECTION 8. That the Code of Ordinances, City of Fernandina Beach, Florida, is hereby amended by adding a section to be numbered 90-40, which section shall read as follows:

**Sec. 90-40. - Open Fires Prohibited.**

It shall be unlawful for anyone to start, maintain, allow, or have an open fire on the beach unless permitted by the fire marshal. This section does not prohibit fires in self-contained, commercially available heating devices fueled by gas. Heating devices fueled by wood, charcoal, or similar materials shall be prohibited. No fires shall be permitted during sea turtle nesting season.

SECTION 9. It is hereby proposed that Article II, In General, Section 90-45 of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec. 90-45. - Dog control.**

(a) Dogs may be permitted on the Atlantic Ocean beaches, but must be under leash not exceeding 16 feet in length, as defined by the city's animal control regulations, at all times.

(b) It shall be the duty of each person who is in the company of or responsible for a dog on areas other than the property of such person to remove any feces left by the dog on any yard, sidewalk, gutter, street, right-of-way, beach or other public or private place.

(c) It shall further be the duty of any person while in direct control of a dog to have in his/her possession a bag or "pooper scooper" or other such device sufficient for use in the removal of canine waste.

(d) Any person who violates this section may receive a citation and penalty in the amount of \$75.00, and if such violator wishes to appeal the citation, the appeal shall be to the special magistrate in accordance with section 2-399 of this Code.

SECTION 10. It is hereby proposed that Article II, In General, Section 90-46 of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec. 90-46. - Fishing lines.**

No person shall employ or use any fishing lines or equipment in a manner which prohibits or interferes with the rights of the general public to pass on the Atlantic Ocean beaches or within 300 feet north and south of any staffed Ocean Rescue Tower. It is specifically prohibited to extend any fishing line across the entire width of the beach, from the mean high water mark to the actual water line, which interferes, restricts or prohibits passage.

SECTION 11. It is hereby proposed that Article II, In General, Section 90-47 of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec. 90-47. - Parking on or near beaches.**

(a) Parking of vehicles on the Atlantic Ocean beaches and in other designated parking areas within street rights-of-way abutting the Atlantic Ocean beaches shall be prohibited at certain hours to be designated by the city manager. Vehicles parked at the Sadler Road beach parking access, shall not at any time restrict the view of the Ocean Rescue towers.

~~(b) The city manager shall determine and designate which parking areas shall be subject to this section, and shall post sufficient signs to identify the areas.~~ Any person who violates this section may receive a citation and penalty in the amount of \$500.00, and if such violator wishes to appeal the citation, the appeal shall be to the special magistrate in accordance with section 2-399 of this Code.

SECTION 12. It is hereby proposed that Article II, In General, Section 90-48 of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended to read as follows:

**Sec. 90-48. - Traffic regulations; speed limit.**

(a) It shall be unlawful for traffic to proceed on the Atlantic Ocean beaches except as follows:

(1) There shall be no vehicular driving except in those areas designated by the city commission.

(2) No vehicular traffic shall be permitted except at the designated parking area at the Sadler Road access ~~and except as permitted in subsection (a)(4) and (a)(5) of this section.~~

(3) There shall be a designated parking area for vehicular traffic that shall extend from the ~~north line of the Sadler Road access~~ south boundary line of the Sadler Road right-of-way to a point approximately ~~600~~ 375 feet south and terminating at the south line of public

beach access #21 and extending approximately 225 feet north from the north boundary line of the Sadler Road right-of-way along the Atlantic Ocean beach. There shall be no parking permitted within the Sadler Road right-of-way as it extends to the mean high water line of the Atlantic Ocean beach. This designated parking area may be changed, based upon demand, by action of the city commission; provided, however, that such areas may not be ~~enlarged~~ reduced without a prior study and determination of a demonstrated need for such ~~enlarged~~ reduced area.

(a) In the above-described parking area only, there shall be established an emergency access area for the use of first responders, Ocean Rescue and official personnel where parking and vehicular traffic is prohibited. This emergency access area shall be measured from the toe of the primary frontal dune (as defined by the Federal Emergency Management Agency-FEMA) or terminus of any manmade structure seaward a distance of 25 feet, as established in the sole discretion of the City.

(b) In accordance with the 1973 Endangered Species Act and Florida Marine Turtle Protection Act, special care shall be taken to ensure the welfare of endangered species on the beach. Any harassment, harm, pursuing, capture, collection, intentional or not intentional, is prohibited. No beach parking as authorized above shall be permitted from sunset until 9:00 a.m. during sea turtle nesting season, from May 1 through October 31 of each year. Vehicles may not park or drive within 5 feet of a marked sea turtle nest.

~~(4) Permits shall be required for beach driving. The city commission may, by resolution, authorize a fee schedule for such permits. Fees may be reduced or waived for special consideration by the City Manager, including for disabled persons with a valid disabled person parking permit. Any fees collected shall be placed into a fund designated for beach protection and conservation.~~

~~(4 5)~~ Certain vehicles permitted; issuance of permits.

a. In addition to the above, there shall be permitted two-way driving south of the Sadler Beach parking area only for:

(1) On a first come, first serve basis, disabled persons with a valid disabled person parking permit issued pursuant to F.S. § 320.0848. Each disabled person eligible to receive a beach-driving permit hereunder shall be a City or Nassau County resident and is solely responsible for providing proof of successful completion of beach driving training. The City has information and options available for completing such beach driving training.

(2) Only automobiles and trucks, as defined by F.S. § 320.01, are permitted to be driven on city beaches with a valid permit issued by the City pursuant to subsection 5 a.(1) above.

b. It is the intent of this subsection (a)(5) to permit restricted beach vehicular driving to accommodate disabled persons and shall not be construed in any manner to authorize or permit unrestricted beach driving or cruising. The number of permits to be issued pursuant to this subsection shall be limited to no more than 15 such permits per year, and such permits shall each expire on September 30th each year. The city manager shall promptly advise the city commission whenever the number of such permits outstanding equals 15.

(~~5~~ 6) Upon presentation of proper identification, annual permits authorized by subsection (a)(5) of this section shall be issued at city hall. The fee for disabled persons shall be waived.

(~~6~~ 7) Any permit holder determined to have violated any of the provisions of this section shall be subject to having his/her permit revoked upon written notice and hearing before the city manager on the same.

(b) It is unlawful to exceed the vehicular speed limit of ~~45~~ 5 miles per hour, or to operate a vehicle in a careless or reckless manner on the Atlantic Ocean beaches. By resolution, the speed limit may be reduced upon determination of the city police department or the proper authorities.

SECTION 13. Severability. In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, phrase, sentence or paragraph hereof.

SECTION 14. Effective Date. This Ordinance shall take effect immediately upon its final passage and adoption.

ADOPTED this 17<sup>th</sup> day of April, 2018.

CITY OF FERNANDINA BEACH

\_\_\_\_\_  
John A. Miller  
Commissioner – Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:



\_\_\_\_\_  
Caroline Best  
City Clerk

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Tammi E. Bach  
City Attorney