

ORDINANCE NO. 17-15

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF TREASURE ISLAND AMENDING THE CITY OF TREASURE ISLAND'S LEAVE NO TRACE ORDINANCE; AMENDING CHAPTER 58 WATERWAYS, ARTICLE II BEACHES, SECTION 58-51 OBSTRUCTIONS ON THE BEACH PROHIBITED, EXCEPTIONS; PROVIDING FOR NOTICE; ENFORCEMENT; SEVERABILITY; CONFLICT; CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Treasure Island enacted the current Leave No Trace Ordinance on September 6, 2016; and

WHEREAS, the current Leave No Trace Ordinance prohibits leaving unattended property on the beaches in Treasure Island between the hours of 9:00 p.m. and 7:00 a.m.; and

WHEREAS, beach access by vehicles is restricted during marine turtle nesting season which limits the City's ability to remove unattended personal property found in violation of the Leave No Trace Ordinance; and

WHEREAS, extending the hours of the Leave No Trace Ordinance from 7:00 a.m. to 8:00 a.m. allows for additional flexibility in the enforcement of the ordinance; and

WHEREAS, the City affixes a violation tag on personal property found in violation of the Leave No Trace Ordinance, and may remove the tagged personal property; and

WHEREAS, authorizing the City to remove and discard unattended and tagged personal property at any time of the day or night would allow for enhanced enforcement of the ordinance; and

WHEREAS, The City of Treasure Island Commission, after due consideration, has determined that amending the Leave No Trace Ordinance is in the best interest of the City of Treasure Island.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF TREASURE ISLAND DOES ORDAIN THAT:

Section 1. The purpose of this Ordinance is to amend the City of Treasure Island's Leave No Trace Ordinance by extending the hours from 7:00 am to 8:00 a.m. and further clarifying that the City can remove any unattended and tagged personal property at any time of the day or night to enhance the City's ability to enforce.

Section 2. Chapter 58 "Waterway", Article II "Beaches", Section 58-51, "Obstructions on the beach prohibited, exception" of the City of Treasure Island Code of Ordinances, is hereby amended to read as follows:

58-51 Obstructions on the beach prohibited, exceptions

(a) It shall be unlawful for any person to leave any personal property unattended on the public beaches between the hours of 9:00 p.m. and ~~7:00 a.m.~~ 8:00 a.m., except as otherwise permitted herein. It shall be unlawful for any person to leave any personal property unattended at any time within any public beach access, except as otherwise permitted herein. As used in this section, "personal property" shall include, but is not limited to: tents (including tent frames), cabanas, umbrellas and other shading devises, beach chairs and other furniture, picnic tables, tiki huts, volleyball nets, hammocks, floats, sailboards, surfboards, kites, jet skis, sailboats, water cycles and other watercraft, beach toys, grills, nets, coolers, canoes, kayaks and general items for beach recreation, clothing or similar items.

(b) Any item of personal property left on the public beach unattended in violation of this article shall be deemed discarded and shall become the property of the City of Treasure Island, which may dispose of the item. Any item of personal property found in violation of this article that has been tagged for future removal shall become the property of the City of Treasure Island, which may dispose of the item.

(c) *Exceptions.* The prohibitions of this section do not apply to:

- (1) City trash or recycling containers;
- (2) Signs placed by the City or another permitted governmental agency;
- (3) Items placed by persons acting under authority of the City Manager or other governmental agency;
- (4) Items placed in accordance with permits, licenses or agreements issued by the City;
- (5) Structures, including without limitation boardwalks, decks and dune walkovers constructed and permitted by City or the State of Florida; or
- (6) Items placed on the public beach by persons who have authorization or a permit to engage in marine turtle nesting research issued by the United States Fish and Wildlife Service of the State of Florida.

(d) *Permits.*

- a. Permits may be issued by the City Manager or his/her designee for activities otherwise prohibited by this article for such periods of time and under such conditions as the City Manager deems reasonably appropriate under the circumstances that are found to be necessary for:

- (1) Reasonable accommodation of persons with is abilities;
- (2) For the conduct of a governmental, civic or educational activity;

- (3) For the conduct of scientific research;
 - (4) For special events; or
 - (5) For a beach amusement, beach business or beach service.
- b. Such City permit shall include the following:
 - (1) Name and contact information of the owner or person in possession and control of the item;
 - (2) Description of the item;
 - (3) Location of the item;
 - (4) Duration of time the item will remain in such location; and
 - (5) Acknowledgement that owner or person in possession and control of the item will be liable for any impacts to federally protected species.
- c. Any person seeking a City permit for activities otherwise prohibited by this article shall obtain all necessary permits from state and federal agencies.
- d. No City permit shall be issued for any of the following items:
 - (1) Items that will obstruct hinder or otherwise impede emergency and maintenance vehicles from traversing the beach;
 - (2) Items that may be easily removed from the beach, even though removal may be inconvenient for the owner or person in possession and control of the item, unless otherwise provided for in paragraph (d) above;
 - (3) Items which in the reasonable discretion of the City Manager or his/her designee determines to be an item which should not remain on the beach for more than the permitted time because to do so would be injurious to the environment, or the health, safety, or welfare of the public; or
 - (4) Persons who leave personal property unattended at the public beach do so at their own risk. The City does not assume any liability for personal property on the public beach.
- e. All items, whether permitted or not, shall be removed from the public beach 24 hours upon issuance of a tropical storm or hurricane watch issued for Pinellas County or other severe weather warning by the National Weather Service.
- f. This section 58-51 is not intended to authorize any violations of Section 379.2431 of the Florida Statutes or any of the provisions of the Endangered Species Act. The City will not be liable for any impacts to federally protected species resulting from persons leaving items of personal property on the public beach and such liability will rest with the owner of such item.

- (e) It shall be the duty and responsibility of the City's law enforcement and/or code enforcement to enforce all provisions of this section.

Section 3. NOTICE.

The City shall provide notice of this Ordinance by posting signage located at its beach access points and on its website.

Section 4. ENFORCEMENT.

The City is authorized to enforce this Ordinance and may follow the established procedures by the City of Treasure Island Police Department, Code Enforcement and through any civil complaint. Each violation of this Ordinance shall constitute a separate offense. The City reserves its rights to such civil remedies in law and equity as may be necessary to ensure compliance with the provisions of this Ordinance.

Section 5. SEVERABILITY.

It is declared to be the intent of the City Commission that, if any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6. CONFLICT.

All ordinances or portions of ordinances in conflict with or inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section 7. CODIFICATION.

Section 2 of this Ordinance shall be codified in the Code of Ordinances for the City of Treasure Island, Florida. The codifier is authorized to make editorial changes not affecting the substance of this Ordinance in the substitution of "article" for "ordinance", "section" for "paragraph", or otherwise take such editorial license.

SECTION 8. This Ordinance shall take effect immediately upon its final passage.

FIRST READING: August 1, 2017

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SECOND READING AND PUBLIC HEARING: September 5, 2017

YEAS: Commissioners Lunn, Kennedy, Keys, Toth, and Mayor Minning

NAYS: None

ABSENT OR ABSTAINING: None

Robert Minning, Mayor

ATTEST:

Tiffany Makras, City Clerk

Approved as to form and content:

Jennifer R. Cowan, City Attorney