

ORDINANCE NO. 17-15

AN ORDINANCE OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, REFERRING TO THE SPECIFIC USE PERMIT BY MAKING A REFERENCE IN THE ZONING MAP OF THE CITY OF SOUTH PADRE ISLAND, TEXAS; PROVIDING FOR A SPECIFIC USE PERMIT FOR A PRIVATE (COMMERCIAL) FISHING PIER AT EAST TRACT 17, PADRE BEACH ESTATE SUBDIVISION AND SUBMERGED LANDS BELONG TO THE TEXAS GENERAL LAND OFFICE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR A PENALTY OF UP TO TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH VIOLATION; PROVIDING FOR SEVERABILITY; AND AUTHORIZING PUBLICATION IN CAPTION FORM.

WHEREAS, the City Council of the City of South Padre Island ("City Council"), has investigated and determined the City of South Padre Island, Texas ("City") should refer to the Specific Use Permit by making a reference in the Zoning Map as provided herein and pursuant to a notice being duly posted according to law, conducted a public hearing wherein a request was made by Clayton Brashear (the "Applicant") to allow a Specific Use Permit for a Private (Commercial) Fishing Pier on a tract of land zoned Districts "PBN" (Padre Boulevard North);

WHEREAS, the tracts of land are in the City of South Padre Island, Texas, being East Tract 17, Padre Beach Estate Subdivision, and being more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes (the "Property");

WHEREAS, the City Council finds that Applicant has agreed to comply with all provisions of the ordinances of the City, including but not limited to the Zoning Ordinance, and has further agreed to comply with the additional restrictions set forth herein;

WHEREAS, the City Council has investigated and determined that it would be fair to accommodate the Private (Commercial) Fishing Pier by granting the Specific Use Permit;

WHEREAS, the Planning and Zoning Commission of the City and the City Council, in compliance with the laws of the State of Texas and the requirements of Sec. 20-18 of the City Code of Ordinances (Zoning) have given requisite notice by publication and otherwise, and holding due hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, and in the exercise of its legislative discretion have concluded that the Specific Use Permit should be referenced on the Zoning Map as required by Section 20-24 of the City Code of Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, TEXAS:

Section 1. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. The locations of the Specific Use Permit are referenced on the Zoning Map as shown on Exhibit “A”.

Section 3. Applicant is granted a Specific Use Permit to allow construction of a Private Fishing Pier. A condition of allowing construction of a Private Fishing Pier is that the Applicant and the construction activities must abide by each of the following conservation measure recommended by the US Fish and Wildlife Service:

1. Construction will not occur during the nesting sea turtle season, March 15 to October 1;
2. Information signs will be posted on the pier educating the public on safe fishing practices that will reduce or prevent sea turtle injuries and who to notify in the event a dead, injured or entangled sea turtle is located. Signs are to be in coordination with and approved by the Sea Turtle Coordinator at Padre Island National Seashore;
3. Trash receptacles on the pier and property will be of the type that will fully contain trash and monofilament line, and not be easily blown or into to the water or adjacent beach;
4. Lighting from vending machines and interior lighting of at the concession area will be minimized;
5. Pier lighting will consist of amber colored lights mounted in well focused fixtures (with full cutoff design, light baffles, and other light control elements that direct the light downward) on the section of pier that crosses the beach and the entire length of the pier;
6. All individuals involved in project activities will be provided information as to the identification status, and habitat utilization of listed species;
7. Materials and equipment required for the project will be staged in upland areas and transported as needed to the proposed work sites;
8. Construction vehicles will access the beach from public roads closes to the work sites to greatly reduce unnecessary transport along the beach front;
9. The number of vehicles transiting from upland areas to the project sites will be kept to a minimum, all vehicles will use the same pathways and access will be confined to the immediate project areas;
10. Contractors will provide a single point of contact responsible for communications, monitoring and reporting endangered species;
11. If a manatee is sighted, all construction activities will cease until the animal has left project area;
12. Training materials will include instructions not to feed or water the manatee and to call the Service’s Ecological Services Field Office at (361) 994-9005.

Section 4. Applicant is granted a Specific Use Permit to allow operation of a Private (Commercial) Fishing Pier. A condition of granting this Specific Use Permit is that the Applicant and the use of the land(s) must abide by each of the following:

1. Signs that forbid littering and unsafe activities shall be installed on the pier;
2. Trash bins shall be located for the convenience of the users;

3. The owner(s) proactively remove trash on the pier, beach and water area at least twice a day, and as necessary at any time during the day;
4. Fish cleaning areas shall be designated, and organic materials (scales, fins, heads, bones, guts, blood and/or dead fishes etc.) shall be disposed properly into a labeled waste container;
5. The concession area shall be the only place that commercial activities are allowed;
6. Suitably trained first-aid staff shall be available at all times that the premises are open to the public;
7. The entire parking lot shall be paved and landscaped to be compliance with Chapter 20 Zoning of the City of South Padre Island Code of Ordinance;
8. Noise shall not exceed seventy-eight (78) decibels on District “B” and eighty-five (85) decibels on District “PBN” when measured from property under separate ownership;
9. Noise shall be reduced to seventy-one (71) decibels on District “B” at nighttime (as defined in Sec.12-2);
10. At no time amplified music that exceeds the requirements of the Noise Ordinance (Sec.12-2) be performed live or played;
11. Insurance shall be provided with the City named as additional insured;
12. Barriers shall be placed on pier to mitigate trash in compliance with the Building Code;
13. There shall be no fish cleaning stations or dumping of bait buckets on pier or over the water;
14. One fire hydrant on Padre Boulevard near the entrance to Clayton Pier shall be provided;
15. Fire access road with a minimum of 20 feet in width, from Padre Boulevard to the Pier, with an approved area for turning the apparatus shall be provided; and
16. One private fire pump system with a flow of 250 gpm on the Pier itself near the concession is required.

Section 5. The Specific Use Permit shall not issue until the City adopts an annexation ordinance annexing the area encompassing the eastern end of the proposed fishing pier. The Specific Use Permit and its conditions shall apply to the eastern end of the proposed fishing pier once issued.

Section 6. All terms of this Specific Use Permit shall be complied with prior to issuance of a certificate of occupancy and shall be maintained thereafter. This Specific Use Permit will be declared null and void if:

1. Any failure to comply with any term or condition of this Ordinance, as it exists or may be amended; or
2. This Specific Use Permit was obtained by fraud or deception.

Section 7. This ordinance repeals all portions of any prior ordinances or parts of ordinances of the Code of Ordinances in conflict herewith.

Section 8. Any violation of the above mentioned section of Chapter 20 of the Code of Ordinances of the City of South Padre Island may be punished by a fine not to exceed two thousand Dollars (\$2000.00) for each offense of for each day such offense shall continue and the penalty

provisions of Sections of Section 21-2 of the Code of Ordinances is hereby adopted and incorporated for all purposes.

Section 9. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

Section 10. This Ordinance shall become effective when published in caption form.

PASSED, APPROVED AND ADOPTED on First Reading, the 4th day of October 2017.

PASSED, APPROVED AND ADOPTED on Second Reading, the 18th day of October 2017.

ATTEST:

CITY OF SOUTH PADRE ISLAND,
TEXAS

SUSAN HILL, CITY SECRETARY

BHARAT R. PATEL, MAYOR

Exhibit "A"

