

ORDINANCE 2023-21

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING ARTICLE III (BEACH DEBRIS) OF CHAPTER 42 (OFFENSES AND MISCELLANEOUS PROVISIONS) OF THE MADEIRA BEACH CODE OF ORDINANCES TO AMEND THE PURPOSE TO INCLUDE COMMERCIAL PROPERTY; INCLUDE COMMERCIAL PROPERTY IN THE DEFINITIONS; ADD COMMERCIAL PROPERTY AND PROVISION RELATING TO BLOCKING PATHWAYS TO OBSTRUCTIONS ON THE BEACH PROVISION; REQUIRE PROPERTY TO BE STORED INSIDE DURING A NAMED STORM EVENT; INCLUDE COMMERCIAL PROPERTY IN LEAVE NO TRACE INFORMATIONAL SIGNS IN RENTAL UNITS; ADD PROHIBITION REGARDING CROSSING DUNES AND THE REMOVAL OF VEGETATION ON DUNES; PROVIDING FOR CONFLICT, SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Staff and Pinellas County Sheriffs Office Deputies from the Community Policing Unit have reviewed the current provisions of Article III (Beach Debris) of Chapter 42 (Offenses and Miscellaneous Provisions) of the Madeira Beach Code of Ordinances and have recommended changes to the same; and

WHEREAS, the recommended changes were presented to and reviewed by the Planning Commission at a public hearing; and

WHEREAS, the Planning Commission has recommended approval of the proposed changes; and

WHEREAS, the recommendations of staff have been found meritorious by the Board of Commissioners; and

WHEREAS, the Board of Commissioners has received input from the public at two public hearings.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, AS FOLLOWS:

Section 1. That Article III (Beach Debris) of Chapter 42 (Offenses and Miscellaneous Provisions) of the Land Development Code of the City of Madeira Beach, Florida, is hereby amended to read as follows:

ARTICLE III. BEACH DEBRIS

Sec. 42-30. Purpose.

The purpose of this article is to ensure the public beach and beach access areas of the city remain free from obstruction of any item of personal **or commercial** property in order to protect public ingress, egress and use, to promote public safety, protect citizens and visitors of city beaches, maintain a safe, welcoming and healthy beach and recreation environment, preserve the natural resource that are the city's public beaches and to protect endangered sea turtles.

(Ord. No. 2016-03, § 1, 4-12-16)

Sec. 42-31. Definitions.

Public beach means all beaches within the city. The public beaches are limited to and means that area of unconsolidated material within the city that extends landward from the mean low-water line of the United States Gulf of Mexico to the frontal dune, or where there is no frontal dune to the line of permanent vegetation or construction, whichever is more seaward.

Public beach access areas means those public beach access points within the city, including boardwalks, walkways and dedicated parking areas and the areas on the public beach beginning at the entrance of the beach access point perpendicular with the applicable road right of way to the water's edge.

Camping means the construction or erection of a shelter or similar structure for the purpose of sleeping; or lying upon the beach on a bedroll, blanket or other protective garb for the purpose of sleeping.

Dune means a mound, bluff or ridge of loose sediment, usually sand-sized sediment, lying upland of the beach and deposited by any natural or artificial mechanism, which may be bare or covered by vegetation and is subject to fluctuations in configuration and location. In the absence of a discernable dune, the seaward boundary of a dune will be deemed to be the line of native vegetation.

*Personal **or commercial** property* means all types of personal **or commercial** property used for swimming, sunbathing or beach recreation, including but not limited to tents (including tent frames), canopies, cabanas, umbrellas and other shading devices, beach chairs, hammocks, picnic tables and other furniture, volleyball nets, coolers, clothing, toys, towels, fishing poles or equipment, kayaks, canoes, catamarans, floats, sailboats, surfboards, kites, jet skis, sailboats, water cycles and other watercraft.

(Ord. No. 2016-03, § 1, 4-12-16)

Sec. 42-32. Obstructions on the beach.

- (a) It shall be unlawful for any person to leave an item of personal or commercial property unattended on the public beaches or within the public beach access areas between the one hour after sunset and sunrise of the following day, except as otherwise permitted by section 42-33.
- (b) Any item of personal or commercial property left on the public beach or within the public beach access area in violation of this article shall be deemed discarded by the owner and shall become the property of the city.
- (c) In the confiscation of any item under this section, the city's designated agency or officer is hereby authorized and directed to forthwith dispose of the property in accordance with directions of the city manager.
- (d) Unattended or abandoned items of personal or commercial property, and unattended unfilled holes in the public beach are in violation of this article and shall be deemed a public nuisance.
- (e) It shall be unlawful to block or cause to be blocked, by any means whatsoever, any pathway leading to or from a public beach.

(Ord. No. 2016-03, § 1, 4-12-16)

Sec. 42-33. Exceptions.

From one hour after sunset and sunrise of the following day, items of personal or commercial property that are relocated as close to (but not on) the dune or native vegetation, or where there are no dunes or native vegetation as close as practicable to an existing permanent structure or the line of buildings, will not be considered discarded by the owner, abandoned or in violation of this article, provided:

- (a) Such items shall not be placed on the dune or on native vegetation; and
- (b) Such items shall be stored in a neat and orderly manner; and
- (c) Such items shall not inhibit access to the public beach from the nearest public access area, nor obstruct access on the public beach, nor impact native vegetation, nor significantly affect sea turtles; and
- (d) Private property owners may store items under or adjacent to their private dune walkovers or boardwalks; and
- (e) Items shall not be placed on any public beach access point or within 20 feet of any trash receptacle; and
- (f) Items shall be stored inside a building during a named storm event such as a tropical storm or hurricane.

(Ord. No. 2016-03, § 1, 4-12-16)

Sec. 42-34. Digging holes on the beach.

It shall be required that all holes dug on the beach are to be attended at all times and shall be completely filled and restored to their original level condition prior to leaving the beach the same day it is created.

(Ord. No. 2016-03, § 1, 4-12-16)

Sec. 42-35. Camping.

It shall be unlawful to camp overnight on public beaches in the city.

(Ord. No. 2016-03, § 1, 4-12-16)

Sec. 42-36. Notice.

The city shall provide notice of this article by posting a permanent sign located at the entry of every public beach access point.

(Ord. No. 2016-03, § 1, 4-12-16)

Sec. 42-37. Leave no trace informational signs in rental units.

In each rental unit rented by the day or week, or longer period, within the city, there shall be posted or placed in a plainly legible fashion, in a conspicuous place in each rental unit for each occupancy, a sign in form and substance approved by the city manager that explains the "Madeira Beach Leave No Trace Ordinance" prohibiting tents and personal or commercial property on the public beach at night; and other most notable regulations that include:

- (a) Warning beachgoers that any unattended tents or property left on the public beach at night shall be deemed discarded by the owners and become the property of the city and may be removed and disposed of by the appropriate authority.
- (b) All holes on the beach are to be filled in the same day they are created.
- (c) Camping, bonfire and glass regulations.
- (d) Breach of the peace, sound restrictions and disorderly conduct.

(Ord. No. 2016-03, § 1, 4-12-16)

Sec. 42-38. Sand Dune Protection.

- (a) It shall be unlawful for any person or vehicle to cross, pass over or pass through any sand dune except where such crossing is marked for access.
- (b) The removal or disturbance of vegetation of a dune is prohibited and is in violation of this article. Planting of vegetation on the beach or dune must be suitable for beach and dune stabilization as required in Chapter 106 of the Code of Ordinances..

Sec. 42-~~38~~39. Enforcement.

- (a) The city is authorized to enforce this article and may follow the established procedures and schedule of violations and penalties set forth below to be assessed by law enforcement officials and code enforcement officials through its county court.
- (b) Violation of any provision of this article shall be subject to the following penalties:
 - i. First violation: \$100.00 fine.
 - ii. Second violation: \$200.00 fine.
 - iii. Third violation: Fine not to exceed \$500.00 pursuant to F.S. § 162.22.
- (c) Each violation of this article shall constitute a separate offense. In the initial stages and implementation of this article (implementation period not to exceed July 1, 2016), code enforcement officials may provide violators with no more than one written warning.
- (d) The city shall reserve its rights to such civil remedies in law and equity as may be necessary to ensure compliance with the provisions of this article, including but not limited to injunctive relief to enjoin and restrain any person from violating the provisions of this article and to recover such damages as may be incurred by the implementation of specific corrective actions.

(Ord. No. 2016-03, § 1, 4-12-16)

Sec. 42-39. Reserved.

Section 2. For purposes of codification of any existing section of the Madeira Beach Code herein amended, words **underlined** represent additions to original text, words **~~stricken~~** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 3. Ordinances or parts of ordinances in conflict herewith to the extent that such conflict exists are hereby repealed.

Section 4. In the event a court of competent jurisdiction finds any part or provision of the Ordinance unconstitutional or unenforceable as a matter of law, the same shall be stricken and the remainder of the Ordinance shall continue in full force and effect.

Section 5. The Codifier shall codify the substantive amendments to the Land Development Code of the City of Madeira Beach contained in Section 1 of this Ordinance as provided for therein and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 6. Pursuant to Florida Statutes §166.041(4), this Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, THIS _____ day of _____, 2024.

James "Jim" Rostek, Mayor

ATTEST:

Clara VanBlargan, MMC, MSM, City Clerk

APPROVED AS TO FORM:

Thomas J. Trask, City Attorney

PASSED ON FIRST READING: _____

PUBLISHED: _____

PASSED ON SECOND READING: _____