

ORDINANCE NO. 1464

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, AMENDING THE CITY'S SIGN CODE TO PROHIBIT SIGNS ON THE SANDY GULF BEACH INTENDED TO EXCLUDE PERSONS FROM ANY PORTION OF THE SANDY GULF BEACH; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, beaches in this City represent one of the most valuable natural resources of Florida, and it is in the public interest to preserve and protect them; and

WHEREAS, there are approximately 8 miles of beach within the City of Panama City Beach, which the City finds to be a tremendous asset to the community; and

WHEREAS, the City finds that it has rarely been asked to interfere in territorial disputes between commercial vendors, private upland property owners, and the public as to each parties' rights of use of any portion of sandy gulf beach in the City, likely given the long-standing benefits derived by the parties by their particular enjoyment of the land; and

WHEREAS, the City finds that, in the exceptionally rare times when a territorial dispute over the use of the sandy gulf beach has arisen, the City has historically declined to trespass, sanction, or otherwise resolve that dispute in favor of any particular party; and

WHEREAS, the City finds that historically signs have been allowed on the sandy gulf beach in certain circumstances, but such signs have not been erected to exclude or intimidate any persons from general recreational use of the sandy gulf beach; and

WHEREAS, on July 1, 2018, Chapter 2018-94, Laws of Florida, shall become effective throughout the state of Florida; and

WHEREAS, Chapter 2018-94 created section 163.035, Florida Statutes which creates a process by which a local government may adopt or keep in effect an ordinance or rule related to recreational customary use of a portion of a beach; and

WHEREAS, Chapter 2018-94 does not apply to a ordinances adopted by a local government that were in effect prior to January 1, 2016, and for this reason, the City finds and determines that none of the City's ordinances are invalidated by Chapter 2018-94; and

WHEREAS, the City finds that based upon recent media reports, anecdotal evidence, and the testimony of the City Council and staff, the passage of Chapter 2018-94, Laws of Florida, has created confusion among the public regarding the right of private property owners to exclude recreational beachgoers from any portion of the sandy gulf beach within the City; and

WHEREAS, the City finds that the confusion surrounding Chapter 2018-94, Laws of Florida, is likely to cause individuals, commercial vendors, or upland property owners to erect "No Trespassing" signs on portions of the sandy gulf beach which are likely to mislead the public as to the City's longstanding policy against enforcing territorial disputes on the sandy gulf beach; and

WHEREAS, the City finds that, although law enforcement has never enforced exclusion of persons from any portion of the sandy gulf beach has never been permitted by the City, the City's Land Development Code and Code of Ordinances exempt and do not expressly prohibit the placement of "No Trespassing" or other signs intended to exclude persons from the sandy gulf beach; and

WHEREAS, the City finds that it has a compelling governmental interest in preventing false statements, confusion, and misunderstanding that criminal or other law enforcement consequences may result from recreational use of any portion of the sandy beach of the Gulf of Mexico is illegal; and

WHEREAS, the City finds that this amendment to the Land Development Code is narrowly tailored to only prevent signs which prevent such false statements or confusion while still allowing private property owners to exercise their First Amendment rights of free expression; and

WHEREAS, the City finds that the impending effective date of Chapter 2018-94, Laws of Florida, and the upcoming Fourth of July holiday which will see a major influx of visitors to the Gulf, establish exigent circumstances which require the passage of an emergency ordinance to prevent the placement of signs that suggest

that the City will remove any person from a portion of the sandy gulf beach.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, Section 5.07.04 of the Land Development Code of the City of Panama City Beach related to Prohibited Signs, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

5.07.04 Prohibited Signs.

It shall be unlawful for any person to *Erect*, display, or allow to be *Erected* or displayed within the *City* any of the following types of *Signs*:

...

OO. Signs on the sandy beach of the Gulf of Mexico which state “no trespassing” or contain a materially similar message which provides warning that recreational use of any portion of the sandy beach of the Gulf of Mexico is illegal. For purposes of this section, “sandy beach” shall mean that area of unconsolidated material that extends landward from the mean low-water line of the Gulf of Mexico, to the frontal dune, or to where there is no frontal dune, to the line of permanent vegetation or construction, whichever is more seaward.

SECTION 2. A Sign existing on the sandy Gulf Beach on the effective date of this Ordinance which was erected pursuant to a valid permit from the City, if a permit was required, and which complies in all respects with City ordinances in effect prior to the adoption of this Ordinance, is hereby deemed to be a Legal Sign. After the effective date of this Ordinance, these Legal Signs will become Legal,

Nonconforming Signs. Legal, Nonconforming Signs shall, on or before _____, 2018, conform to the requirements of this Ordinance or be removed.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 4. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 5. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED by a two-thirds vote at the regular meeting of the City Council of the City of Panama City Beach, Florida, this _____ day of _____, 2018.

MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____, 2018.

MAYOR

Published in the _____ on the ____ day of _____, 2018.

Posted on pcbgov.com on the ____ day of _____, 2018.