

ORDINANCE 1389-R

DENIED BY UNANIMOUS
VOTE AT 1ST READING.

JUNE 23, 2016

(REPLACED 1389 THAT
DIED AT 6/9/16 MEETING)

ORDINANCE NO. 1389-R

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING CHAPTER 7 OF THE CITY'S CODE OF ORDINANCES RELATING TO BEACHES, BOATS AND WATER SAFETY; PROHIBITING CANOPIES WITHIN 30 FEET OF THE PRIMARY WRACK LINE; PROVIDING FOR PENALTIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, beaches in this state 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 Panama City Beach, which the City finds to be a tremendous resource and asset to the community; and

WHEREAS, the County restores, renourishes and maintains the beach (inside and outside of the City limits), and regularly patrols, cleans and removes debris and trash from the beach, which the City supports; and

WHEREAS, the City declares for itself the duty to preserve and protect the use of the re-nourished beach for the enjoyment of the public; and

WHEREAS, it has been the City's custom to treat that portion of beach lying 10' landward of the primary wrack line to be wholly belonging to the State; and

WHEREAS, given the success of the three renourishment projects undertaken on the City's beaches since 1998, the City presumes that the portion of land held in its trust on behalf of the public is more likely to include at least that portion of the sandy beach lying 30' landward of the primary wrack line; and

WHEREAS, the City acknowledges that such a presumption may be rebutted in those certain places where a survey of the Erosion Control Line is found to exist within this area of the sandy beach 30' landward of the primary wrack line, and in such cases, the City holds in trust for the enjoyment of the public only that portion of the sandy beach lying seaward of the erosion control line; and

WHEREAS, on July 10, 2014, the City adopted Ordinance 1301, which substantially updated Chapter 7 regulating use of the Beach, and among other things, provided that goods permitted to be rented on the beach shall not be placed within that 30' strip landward of the primary wrack line; and

WHEREAS, the City now finds that given the popularity of beach tents and canopies brought to the beach by the general public, another regulation is necessary to prohibit the

crowding of this area with such shade structures that do or may impede travel along or views of the beach; and

WHEREAS, the City finds that protecting this (approximately) 30' wide area preserves both the City's need to allow limited vehicle access for commerce and patrol, but also the rights of the general public to access and enjoy the beach, while balancing the rights of upland owners and businesses to enjoy, control and manage their beaches; and

WHEREAS, the City's action to preserve this 30' strip on the beach, free from commerce and shading devices is not inconsistent with its duty to preserve the common-law rights of the upland owners and businesses enunciated by the legislature in 161.201, Florida Statutes, and the upland owners will still be able to use the beach to exercise their common law rights of ingress, egress, view, boating, bathing and fishing.

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 7-11 of the Code of Ordinances of the City of Panama City Beach, related to conduct on the sandy gulf beach, is established to read as follows:

Section 7-11. Canopies prohibited near shore.

- (a) It shall be unlawful for any person to erect, store or place a Canopy on the sandy gulf beach within thirty (30) feet landward of the primary wrack line, or if there be no primary wrack line, the scarf line or landward edge of the wet sand. For purposes of this section, "Canopy" shall mean a temporary structure generally used for shade or shelter which generally consists of a rectangular shaped fabric supported on four or more vertical poles.
- (b) Penalties. Violation of this Section shall be punishable as a Class 3 Infraction as provided in Section 7-503.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. 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 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 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this ____ day of _____, 2016.

MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____, 2016.

MAYOR

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