

**Ordinance 2018-07**

**AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA RELATING TO CUSTOMARY USE OF BEACHES AND PUBLIC ACCESS; AMENDING CHAPTER 94, WATERWAYS, ARTICLE III, BEACHES, DIVISION 1, GENERALLY, OF THE CODE OF ORDINANCES, BY CREATING SECTION 94-74, CUSTOMARY USE OF BEACHES-INTENT; CREATING SECTION 94-75, PRESERVATION OF PUBLIC ACCESS; CREATING SECTION 94-76, PROHIBITION OF OBSTRUCTIONS TO PERSONAL ACCESS TO THE BEACHES; CREATING SECTION 94-77, CONSTRUCTION OF EROSION CONTROL STURCTURES; CREATING SECTION 94-78, PROHIBITION OF INTERFERENCE AND POSTING; CREATING SECTION 94-79, ENFORCEMENT AND VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, CONSTRUCTION, PUBLICATION, AND AN EFFECTIVE DATE.**

**NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH FLORIDA, HEREBY ORDAINS:**

SECTION 1. That the Code of Ordinances, City of St. Pete Beach, Florida, is hereby amended by creating new sections to Chapter 94, Article III, Division 1, to be numbered 94-74 through 94-79 and shall read as follows:

**Chapter 94 – WATERWAYS**

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**ARTICLE III – BEACHES**

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**DIVISION 1 – GENERALLY**

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**Sec. 94-74. – Customary Use of Beaches-Intent.**

The intent of this section and of section 94-75 through 94-79 is to determine and confirm as a legislative fact that since time immemorial, the public has enjoyed access to the beaches of St. Pete Beach fronting the Gulf of Mexico and its related waters, and has made recreational use of the beaches; that such use has been ancient, reasonable, without interruption, and free from dispute; and that because of this customary access and use, the public has the right of access to the beach and a right to use the beach for recreation and other customary related purposes. The intent is to mandate that the city define, protect, and enforce the public’s customary rights of beach access and use. It is not the intent of the city to affect the title of the owner of land

adjacent to the beach, nor to impair the right of any such owner to contest the existence of the customary right of the public to access and use any particular area of privately-owned beach, nor to reduce or limit any rights of public access or use that may exist or arise other than as customary rights. It is therefore declared and affirmed to be the public policy of the city, that the public, individually and collectively, subject to the provisions of this Code, shall have the right to personal ingress and egress to and from the beach and the right to make recreational and other customary uses of the beach. The Office of the City Attorney shall be authorized to take all steps legally necessary to protect and defend the public right of access and use declared by this Code. Further, it is the intention that customary use shall be an affirmative defense in any proceeding challenging this ordinance.

**Sec. 94-75. – Preservation of Public Access.**

The city will not vacate any approach to the beach or allow the same to be used for private purposes not otherwise preserved to a property owner as a matter of law.

**Sec. 94-76. – Prohibition of Obstructions to Personal Access to the Beaches.**

Except as provided for otherwise in this Code or general law, it shall be prohibited for any person to create, erect, or construct any structure, barrier, or restraint, either vegetative or man-made, that will interfere with or obstruct the right of the public, individually and collectively, to enter or leave the beach by way of any approach or to use lawfully any part of the beach for recreation and other customary purposes.

**Sec. 94-77. – Construction of Erosion Control Structures.**

The provisions of Section 94-76 above shall not prohibit the construction of an erosion control structure or of a re-nourished beach area permitted under applicable federal, state, county or city laws and regulations.

**Sec. 94-78. – Prohibition of Interference and Posting.**

It shall be unlawful and prohibited for any person to confront, threaten, harass, intimidate, or interfere with any person who is lawfully exercising the right of the public for the customary use of the beach. It shall be prohibited for any person to display or cause to be displayed on any beach or approach, any sign, marker, or warning stating that the public beach is private property or that the public does not have the right of access contrary to the lawful access rights of the public.

**Sec. 94-79. – Enforcement and Violations.**

Violations of the provisions of Sections 94-76 and 94-78 shall be subject to the enforcement and penalties provided for in Section 1-14 of this Code.

SECTION 2. Conflicts. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

SECTION 3. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 4. Construction. This Ordinance is to be liberally construed to accomplish its objectives.

SECTION 5. Publication. This Ordinance shall be published in accordance with the requirements of law.

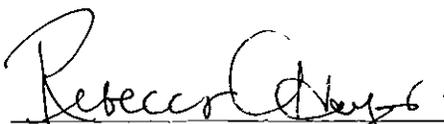
SECTION 6. Effective Date. This ordinance shall take effect immediately upon adoption.

FIRST READING:           **06/12/2018**  
PUBLISHED:               **06/15/2018**  
SECOND READING:       **06/26/2018**  
PUBLIC HEARING:       **06/15/2018**

CITY COMMISSION, CITY OF ST. PETE  
BEACH, FLORIDA.

  
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Alan Johnson, Mayor

I, Rebecca C. Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this 26<sup>th</sup> day of June, 2018.

  
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Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

  
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Andrew Dickman, City Attorney