

ORDINANCE NO. C-15

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CITY CODE OF ORDINANCES CHAPTER 8, "BOATS, DOCKS, BEACHES AND WATERWAYS," ARTICLE III, "PUBLIC BEACHES," DIVISION 1, "GENERALLY," CODE SECTION 8-52, "FORT LAUDERDALE BEACH DESIGNATION," WITH RESPECT TO THE DEFINITION OF FORT LAUDERDALE PUBLIC BEACH TO DELETE THEREFROM THE DEFINITION CERTAIN PRIVATE PROPERTY, MORE PARTICULARLY DESCRIBED BELOW; REVISING THE NUMBER OF CITY COMMISSION REGULAR MEETINGS REQUIRED FOR DESIGNATION OF RECREATION FACILITY FOR WHICH BEACH AND PARK AREA MAY BE USED; PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE.

WHEREAS, prior to this amendment, the definition of "Fort Lauderdale Beach" in City Code Section 8-72 included a certain portion of the public beach that is privately owned and unencumbered by any "public beach easement"; and

WHEREAS, the owner of that portion of the "Fort Lauderdale Beach" which is in private ownership that is not encumbered with any "public beach easement" has requested that the privately owned portion of the "Fort Lauderdale Beach" be deleted from the definition in Code Section 8-52 of "Fort Lauderdale Beach"; and

WHEREAS, the City Commission of the City of Fort Lauderdale finds and declares that excluding that portion of privately owned beach, which is not encumbered with a "public beach easement," from the definition of "Fort Lauderdale Beach" in Code Section 8-52 serves a valid municipal purpose;

THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA AS FOLLOWS:

SECTION 1. That Chapter 8, "Boats, Docks, Beaches and Waterways," Article III, "Public Beaches," Division 1, "Generally," Section 8-52, "Fort Lauderdale Beach Designated" of the Code of Ordinances of the City of Fort Lauderdale, Florida (hereinafter, "Code") is amended to read as follows:

Sec. 8-51. Duty to provide lifeguards, etc.; public beaches designated.

- (a) The beach area defined in section 8-71 (a) shall be the only beach area concerning which the city shall have the duty and obligation to provide lifeguards and cleaning and maintenance.

- (b) Except as the beach area described in section 8-71 (a) may be included within the boundaries thereof, those beach areas described in sections 8-52 and 8-71(b) shall not constitute beach areas for which the city is obligated to provide lifeguards and cleaning and maintenance.
- (c) All beach areas described in sections 8-52 and 8-71 of this Code shall be considered as public municipal property and subject to such regulations as may be prescribed by the city commission.

Sec. 8-52. For Lauderdale Beach designated.

The public bathing beach or beaches on the waters of the Atlantic Oceans in the city extending from the north line of Government Lot 3, Section 12, Township 50 South, Range 42 East extended to the Atlantic Ocean on the south to the northern boundary line of Section 31, Township 49 South, Range 43 East on the north and from North Atlantic Boulevard (State Road A-1-A) on the west to the waters of the Atlantic Ocean on the east, save and except therefrom that area bounded on the east by the waters of the Atlantic Ocean, on the west by the easternmost right-of-way of State Road A-1-A, with the northern and southern boundaries thereof as described in those instruments recorded at Deed Book 372, Page 360 and Official Records Book 1213, Page 643 of the Public Records of Broward County, Florida, said instruments being on file in the Office of the City Clerk, and said area generally known as Bonnet House Private Beach, being 700 feet of privately owned beach, unencumbered by any public beach easement rights (with the exceptions of two (2) parcels of private property in such area) and further excepting therefrom that area shown as Sand Beach on the plat of Lauderdale Beach as recorded in Plat Book 4, Page 2, of the Public Records of Broward County, Florida records, which extends from the northern boundary line of Section 31, Township 49 South, Range 43 East on the south to the north boundary line of Oakland Park Beach Boulevard extended to the waters of the Atlantic Ocean on the north and from the east boundary line of Blocks 12, 13, Vista Park, 14, C, D, 15, 16, 17, 18 and 19 of Lauderdale Beach Subdivision as recorded in Plat Book 4, Page 2 of the Public Records of Broward County, Florida records, on the west to the waters of the Atlantic Ocean on the east, and it is hereby known and designated as “Fort Lauderdale Beach” and is hereby declared to be a public municipal beach and recreational area for the use of the public in general.

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Sec. 8-53. – Recreational facilities permit; parking areas.

The designation of a recreational facility for which the beach and park may be used, and upon which part of such property and improvement is to be located, shall be made by the city commission of the city, and such use or permit shall be granted only by ordinance of the city passed at two (2) ~~three (3)~~ separate regular meetings of the city commission. Nothing in this section shall prohibit the city from using any part of the premises except the designated beach as a municipal parking area operated under the jurisdiction of the city, which can be free or for charge; provided, however, that nothing contained in this section shall be construed so as to prohibit the construction or operation of a fishing pier or any part of the premises dedicated herein as public beach and park.

Section 8-54. – Temporary concessions for special events.

In conjunction and with the city-approved outdoor events taking place on public beaches or adjacent rights-of-way, the city commission may, grant approval for the sale of food and nonalcoholic beverages in such locations and subject to such conditions as may be specified.

Section 8-55.1. – Recreation concessions.

(a). The city commission may grant concessions for recreational purposes on that portion of the city's public beach described in section 8-71 provided that the city commission finds that the proposed concession operation meets the following requirements;:

- (1) The proposed concession operation promotes the recreational use of the public beach.
- (2) The proposed concession operation will have no adverse impact upon pedestrian or vehicular traffic.
- (3) The proposed concession operation will have no adverse impact upon accessibility and use of the beach by the general public.

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- (4) The proposed concession operation will have no adverse impact upon marine life, air quality, water quality or vegetation.
- (5) The proposed concession operation will be compatible with the public's use of adjacent beach areas.

(b) All proposed concessions approved by the city commission will be awarded on the basis of competitive bidding; however, the city commission may authorize a test period for a proposed recreation concession for a period not to exceed one (1) year without the necessity of competitive bidding.

(c) No recreational concession authorized herein shall place a permanent or a temporary structure on the beach at any time between sunset and sunrise of the following day unless specifically approved by the city commission and unless such structure has all required permits.

(d) Any person awarded a concession shall enter into a written agreement with the city providing for, among other things, the compensation to be paid to the city for said concession and for the provision of a certificate of insurance to the city satisfactory to the risk manager, such insurance to include comprehensive general liability coverage in such amounts as determined by the city's risk manager and naming the city as an additional insured. The agreement shall further provide that the concessionaire will indemnify and hold harmless the city for any damage to persons or property which might occur during or as a result of the operation of the concession. Under no circumstances shall the term of the concession agreement exceed five (5) years.

Section 8-55.2. – Franchises.

(a) The city commission may grant franchises for a term not to exceed five (5) years on the public beaches. Franchises shall be granted for the rental of beach cabanas, umbrellas, chairs, windbreakers, dugouts and rafts. The holder of a franchise granted hereunder may be permitted storage on the public beach of said equipment and temporary storage sheds of a type specified by the city commission in a franchise agreement.

(b) All franchises granted hereunder shall be awarded by competitive bid pursuant to the pursuant code. The franchisee shall enter into a written agreement with the city providing for, among other things, the compensation to be paid to the city for the CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols and letters ~~double stricken~~ are deletions from the version presented at first reading.

franchise and for the provision of a certificate of insurance on such terms, amounts and coverages as shall be specified by the city's risk manager and naming the city as an additional insured. The agreement shall further provide that the franchisee shall indemnify and hold harmless the city for any damage or injury to person or property which might occur during or as a result of the operation of the franchise.

Sec. 8-55.3. – Recreational programs/services.

Recreational programs and/or services on the public beach will be administered as described in sections 19-1, 19-2, 19-3.

Sec. 8.56. – Misuse or destruction of city property.

It shall be unlawful for any person to misuse or destroy any equipment provided by the city in connection with the operation of public beaches.

Sec. 8-57. – Nudity.

It shall be unlawful for any person to come upon any public beach or to use the waters adjacent thereto while nude.

Sec. 8-58. – Sleeping on municipal beaches in the nighttime prohibited.

(a) *Legislative intent.* It is the intent of the city commission in the adoption of this section to preserve and protect the beauty of the city's public beaches since such beaches are invaluable natural assets which are held in trust by the city for recreational use by residents and visitors alike. The city commission has made the following findings in reaching the determination that sleeping on the city's beaches during nighttime hours must be prohibited:

- (1) The city's beaches are its most valuable natural asset.
- (2) The city's beaches are intended to be used solely for recreational purposes and are not intended to be used for sleeping during nighttime hours.
- 3) The city's economic well-being is substantially dependent upon tourism which is, in turn, dependent upon maintaining attractive and

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inviting beaches. Permitting persons to sleep upon the city's beaches during nighttime hours will negatively affect the appearance of the city's beaches,

- (4) Persons asleep on city beaches during nighttime hours are exposed to the risk of harm from others or from the elements.
- (5) Prohibiting persons from sleeping upon the city's beaches during nighttime hours will promote the public health, safety and welfare.

(b) Prohibition. It shall be unlawful for any person to sleep on any public beach within the corporate limits of the city between the hours of 9:00 p.m. and 6:00 a.m. of the following day.

SECTION 2. That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 4. That this Ordinance shall be in full force and effect upon final passage.

PASSED FIRST READING THIS ___ day of _____, 2015.

PASSED SECOND READING THIS ___ day of _____, 2015.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

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City Clerk
JONDA K. JOSEPH

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Exhibit 4
CAM 15-0564