

ORDINANCE NO. 08 - 06

AN ORDINANCE OF THE TOWN OF SOUTH PADRE ISLAND, TEXAS, AMENDING CHAPTER 23 [SUBDIVISION ORDINANCE] ADDING SECTION 23.08 TO PROVIDE THE PROVISION THAT PLATS AND REPLATS WILL PRESERVE OR ENHANCE EXISTING PUBLIC RIGHT TO USE AND HAVE ACCESS TO AND FROM THE PUBLIC BEACH WITHIN THE TOWN AND THE TOWN'S ETH; ADOPTING STATE REQUIREMENTS PERTAINING TO LOCAL GOVERNMENT MANAGEMENT OF THE PUBLIC BEACH PERTAINING TO PUBLIC BEACH USE AND ACCESS; AMEND SECTION 23.14(G) TO ALLOW RESERVE STRIPS FOR FUTURE BEACH ACCESS OR PARKING; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF UP TO FIVE HUNDRED DOLLARS (\$500.00) FOR EACH VIOLATION; PROVIDING FOR THE EFFECTIVE DATE; AND AUTHORIZING PUBLICATION IN CAPTION FORM.

NOW, THEREFORE, BE IT ORDAINED BY BOARD OF ALDERMEN OF THE TOWN OF SOUTH PADRE ISLAND, TEXAS:

SECTION 1: Chapter 23 [Subdivision Regulations] Section 23.08 of the Town Code of Ordinances is hereby amended to include language that reads as follows:

Section 23.08 Preserving Public Beach Use and Access.

- (1) No plat or re-plat will be approved that does not preserve or enhance existing public right to use and have access to and from the beach [Authority: 31 TAC, §15.7]
- (2) The Town of South Padre Island shall presume that any beach fronting the Gulf of Mexico within its jurisdiction and within its ETJ is a public beach as defined by Chapter 61 of the Texas Natural Resources Code.
- (3) The Town of South Padre Island shall regulate pedestrian and vehicular access, traffic and parking on the public beach in a manner that is consistent with 31 TAC, §15.7(h) (which reads as follows):

(h) Preservation and enhancement of public beach use and access. A local government shall regulate pedestrian or vehicular beach access, traffic, and parking on the beach only in a manner that preserves or enhances existing public right to use and have access to and from the beach. A local government shall not impair or close an existing access point or close a public beach to pedestrian or vehicular traffic without prior approval from the General Land Office.

(1) For the purposes of this subchapter, beach access and use is presumed to be preserved if the following criteria are met.

- (A) Parking on or adjacent to the beach is adequate to accommodate one car for each 15 linear feet of beach.*
- (B) Where vehicles are prohibited from driving on and along the beach, ingress/egress access ways are no farther apart than 1/2 mile.*
- (C) Signs are conspicuously posted which explain the nature and extent of vehicular controls, parking areas, and access points. Local governments may establish their own beach access and use standards for General Land Office approval and certification based upon the General Land*

Office's affirmative finding that such standards preserve and enhance the public's right to use and access the public beach.

SECTION 2: Chapter 23 [Subdivision Regulations] Section 23.14(G) of the Town Code of Ordinances is hereby amended to read as follows:

“(G) *Reserve strips prohibited.* There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use, EXCEPT for properties that need to provide for public beach access and/or public beach parking consistent with 31 TAC, §15.7. In such exceptions, the reserve strip shall be clearly marked and labeled for such use.”

SECTION 3: This ordinance repeals all portions of any prior ordinances or parts of ordinances of the Code of Ordinances in conflict herewith.

SECTION 4: Any violation of this Ordinance may be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense or for each day such offense shall continue and the penalty provisions of Section 21-2 of the Code of Ordinances is hereby adopted and incorporated for all purposes.

SECTION 5: If for any reason, any section, paragraph, subdivision, clause, phrase, word, or provision of the Ordinance shall be held unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this Ordinance, for it is the definite intent of this Board of Aldermen that every section, paragraph, subdivision, clause, phrase, word, or provision hereof be given full force and effect for its intended purpose.

SECTION 6: This Ordinance shall become effective when published in summary form according to law.

PASSED, APPROVED, AND ADOPTED on First Reading, this 16th day of July 2008.

PASSED, APPROVED, AND ADOPTED on Second Reading, this 6th day of August 2008.

ATTEST:


SUSAN HILL, Assistant City Secretary

TOWN OF SOUTH PADRE ISLAND


ROBERT N. PINKERTON, JR., MAYOR

