

DRAFT ORDINANCE

AN ORDINANCE EXPLICITLY PROHIBITING THE USE OF ELECTRIC-ASSISTED BICYCLES ON THE BEACH OR DUNE SYSTEM; AMENDING CHAPTER 74. – WATERWAYS, SECTION 74-182. – DESTRUCTION OR DIMINISHMENT OF BEACH OR DUNE SYSTEM; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 74-182, Sanibel Code, generally prohibits the use of electric or motorized vehicles on the beach or dune system; and

WHEREAS, the increased capabilities of electric-assisted bicycles (“e-bikes”) have led to more prohibited electric vehicle use on the beach; and

WHEREAS, City Council desires to clarify its protection of the beach and dune systems from potential destruction or diminishment potentially caused by the use of e-bikes and other battery or electric-powered vehicles; and

WHEREAS, in so doing, City Council also desires to homogenize its related references to exceptions to such restrictions for a “person disabled for mobility purposes,” as used elsewhere in the Sanibel Code, including in Sections 66-244(b)(2); and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Sanibel, Florida:

SECTION 1. The recitals above are true and correct and made a part hereof.

SECTION 2. Sanibel Code of Ordinances, Chapter 74 is hereby amended with ~~strike through~~ language indicating deletions and underlined language indicating additions as follows:

Chapter 74. – Waterways

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Sec. 74-182. - Destruction or diminishment of beach or dune system.

It is unlawful and prohibited for any person to do, conduct or permit any of the following on a beach, upon a dune, in an area containing dune vegetation or in the waters adjacent to a beach:

(1) Place, locate, store, use or transport equipment, or conduct any act in any manner which:

a. Destroys or materially diminishes the beach or dune system, dune vegetation, or wildlife habitat; or

b. Destroys or disturbs any wildlife nesting activities or nesting sites including marine turtle nesting activities and nesting sites.

(2) Harass, molest or disturb wildlife.

(3) Allow beach equipment, when not in use, to remain between the hours of 9:00 p.m. and 7:00 a.m.

(4) Place, use, store, locate or transport any of the following:

- a. Equipment other than beach equipment;
- b. Trailers or transporting equipment;
- c. All power vessels, including personal watercraft.

However, this does not prohibit the temporary landing or anchoring of a vessel on a beach as long as it is incidental to the immediate use of the vessel.

(5) Plant vegetation other than dune vegetation.

(6) Destroy or remove dune vegetation.

(7) Maintain a dump of, or discard or leave litter, garbage, trash or refuse, vegetative clippings or debris.

(8) Deposit or leave human or animal waste.

(9) Consume an alcoholic beverage or have in possession an open container of an alcoholic beverage in a public beach area between one hour after sunset and one hour before sunrise from December 15 through May 15.

(10) Allow dogs or other domesticated animals to roam at large as defined in section 10-1.

(11) Destroy or grossly interfere with the natural wrack line, as by grooming or nonselective raking.

(12) Operate any engine-powered or assisted vehicle, machine or implement, including, without limitation, any battery or electrical powered or assisted bicycle or other vehicle, machine or implement, except for a motorized wheelchair or other similar power-driven mobility device ~~approved conveyance for~~ operated by “a person disabled for mobility purposes” as defined in subsection 66-244(b)(2) ~~with a disability which is actually being used by the person with a disability.~~

(13) Produce or maintain any artificial light or lighting in which the point source of light or any reflective surface of the light fixture is directly visible from the beach; or in which areas seaward of a frontal or primary dune are directly, indirectly or cumulatively illuminated.

(14) Excavate, mine or haul sand or soil from the beach or dune.

(15) Hawk, sell, dispense free of charge, vend or rent equipment, goods or services; or conduct any business activity.

(16) Detonate any explosive devices, including fireworks.

(17) Discharge any firearms.

(18) Light or maintain any open fire except as permitted in chapter 34, article IV.

(19) Temporarily reside, camp or sleep overnight except as permitted in section 42-2.

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Sec. 74-184. - Exceptions; permits.

- (a) The prohibitions contained in subsections 74-182(1) and (2) do not apply to persons who have authorization or a permit to engage in marine turtle nesting research issued by the United States Fish and Wildlife Service, the state department of environmental protection, or the city, and who are acting in conformance with such authorization or permit.
- (b) The prohibitions contained in subsections 74-182(1) and (2) do not apply to fishing, except for chumming as prohibited by Laws of Fla. ch. 90-427, or to the collection of shells and specimens, except as prohibited by the state live shelling prohibition (F.A.C. 68B-26.002 - 68B-26.004) and the ordinance codified herein; or for selective picking up of dead fish, flotsam, jetsam, litter, garbage, trash or refuse.
- (c) The prohibitions contained in section 74-182 do not apply to persons acting under authority of or with permission of a governmental agency.
- (d) Permits may be issued by the city manager for activities otherwise prohibited by this article, which are found to be necessary for reasonable accommodation of persons with disabilities; adjunct to a lawfully existing activity; for the conduct of a civic or educational activity; for the conduct of scientific research; or for any purpose otherwise necessary to protect or to promote the public welfare, for such periods of time as appropriate for the circumstances. To the extent that a permit is issuable under the land development code for any of the activities set out in this subsection, the standards and procedures for issuance shall be governed by the Land Development Code.

SECTION 3. Codification. This ordinance shall be deemed an amendment to the Sanibel Code of Ordinances and shall be codified in the Sanibel Code of Ordinances as such an amendment. The City Clerk is hereby authorized and directed to instruct as part of the codification that all section numbers amended by this Ordinance are updated and corrected throughout the Code of Ordinances in the event such section numbers are referenced.

SECTION 4. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed, and the remainder shall have full force and effect and be liberally construed.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

SECTION 6. Effective Date. This ordinance shall become effective_____.