

ORDINANCE NO. 24 – __

AN ORDINANCE OF THE COUNTY OF PINELLAS RELATING TO DUNE PROTECTION; PROHIBITING TRAVERSING ACROSS OR MODIFYING DUNES WITH EXCEPTIONS; PROHIBITING ACTIVITY ON DUNES WITHOUT A REQUIRED STATE COASTAL CONSTRUCTION CONTROL LINE PERMIT; PROVIDING FOR APPLICABILITY ON BARRIER ISLANDS COUNTYWIDE; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, dunes along Pinellas County's (County) barrier islands provide numerous economical, safety, and environmental benefits, including but not limited to storm damage protection, beach sand replenishment, and habitat creation;

WHEREAS, the County's beach municipalities and the State currently provide varying degrees of dune protection;

WHEREAS, notwithstanding such existing State and municipal regulation, the Board of County Commissioners (Board) finds that dunes continue to be significantly damaged by human interaction;

WHEREAS, the Board recognizes that some dunes are privately owned and does not wish to interfere with such private ownership;

WHEREAS, the Board recognizes that government agencies conduct and permit certain activities on dunes and does not wish to interfere with such activities;

WHEREAS, the Board recognizes that people rely upon designated public access points to reach the beach and does not wish to interfere with such public access;

WHEREAS, with the exceptions noted above, the Board desires to prohibit traversing across or modifying dunes and vegetation thereon; and

WHEREAS, as an extra measure of dune protection – and to assist the Florida Department of Environmental Protection with enforcement – the Board further wishes to prohibit anyone from performing any activity on a dune that requires a State Coastal Construction Control Line Permit without said Permit.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA THAT:

SECTION 1. RECITALS

The recitals above are incorporated herein.

SECTION 2. Chapter 58 (Environment), Article XVIII (Coastal Protection), Division 1 (Dunes) is hereby created as follows:

Sec. 58-801: Legislative Intent

The intent of this Division (Dunes) is to protect the numerous natural and artificial dunes located throughout the County's barrier islands. The Board recognizes that dunes provide vital storm protection for upland property, as well as important sand replenishment for seaward beach. Dunes also provide vital habitat for coastal flora and fauna. To that end, this Division is intended to protect the integrity of the sediment forming dunes, as well as the vegetation (e.g., sea oats, sea grapes) growing thereon.

The Board recognizes that the State regulates coastal activities pursuant to F.S. Chapter 161 (Beach and Shore Preservation) and rules promulgated thereunder at F.A.C. Chapter 62B (Beaches and Coastal Systems). The Board further recognizes that the State specifically regulates the removal and planting of sea grapes and sea oats (which are commonly found on dunes) under F.S. § 161.242. Finally, the Board recognizes that coastal construction is regulated pursuant to Section 3109 (Pinellas Gulf Beaches Coastal Construction Code) of the Florida Building Code (FBC), as revised by Local Technical Amendment (LTA) adopted by the Pinellas County Construction Licensing Board. As such, nothing herein is intended to conflict with F.S. Chapter 161 (particularly F.S. § 161.242), F.A.C. Chapter 62B, or FBC LTA 3109.

Additionally, the Board recognizes that dune protection is not a Special Power under County Charter § 5.02, nor is there any State law providing for exclusive County regulation of dune protection to the exclusion of municipalities. Accordingly, if a municipality has an effective ordinance that conflicts with this Division, that municipal ordinance will prevail over this Division.

Sec. 58-802: Definitions

- (a) "Dune" means a mound or ridge of loose sediments, usually sand-sized sediments, lying landward of the backshore of the beach and deposited by any natural or artificial mechanism. Unlike other parts of the beach system, dunes are usually (though not always) covered with vegetation. Accordingly, the seaward dune boundary will usually (though not always) be the beach system's vegetation line.
- (b) "Government Agency" means any Federal, State, or local regulatory agency.
- (c) "Person" means any natural person or public or private business entity. The term does not include a "government agency."

Sec. 58-803: Acts Prohibited

- (a) It is unlawful for any person to traverse across, or to in any way modify, a dune, or any vegetation thereon, with the following exceptions:
 - 1. The person owns the dune or is an invitee or licensee of such owner.
 - 2. The person holds a valid permit issued by a government agency that authorizes the activity.
 - 3. The affected part of the dune is a path that is recognized by a government agency as providing public access to and from the beach.

- (b) Notwithstanding (a) above, it is unlawful for any person to perform any activity on a dune that requires a permit from the Florida Department of Environmental Protection under F.S. § 161.053 (Coastal Construction and Excavation) without such permit. Such permits are better described in F.A.C. Chapters 62B-33 (Rules and Procedures for Coastal Construction and Excavation (Permits for Construction Seaward of the Coastal Construction Control Line and Fifty-Foot Setback)), 62B-34 (General Permits for Activities Seaward of the Coastal Construction Control Line), and 62B-56 (Bureau of Beaches and Coastal Systems – Rules and Procedures for Using Sand-Filled Geotextile Dune Cores (Permits for Construction and Maintenance)).

Sec. 58-804: Areas Embraced

This Division applies to barrier islands along the Gulf of Mexico in both unincorporated and incorporated areas of the County. This Division does not apply along bridges leading to such barrier islands, nor does it apply on County mainland.

Sec. 58-805 – Penalty for violation of article

Failure to comply with the requirements of this article shall be punished as provided in section 1-8.

Sec. 58-806 – Civil remedies

- (a) *Abatement.* In addition to the penalties provided in section 58-805, the Board of County Commissioners is hereby authorized to institute any appropriate action or proceeding, including suit for injunctive relief, in order to prevent, clean-up, or abate violations of this article.
- (b) *Additional penalties.* The board of county commissioners is also authorized in accordance with the Pinellas County Environmental Enforcement Act (compiled in article II of this chapter) to impose and recover a civil penalty for each violation of this article in an amount not more than \$10,000.00 for each offense. If a violation of this article is continued, each day of such violation shall constitute a separate offense.

SECTION 3. SEVERABILITY

If any provision of this Ordinance is held invalid by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid.

SECTION 4. INCLUSION IN CODE

The provisions of this Ordinance shall be made a part of the County Code and may be renumbered or relettered accordingly.

SECTION 5. EFFECTIVE DATE

Pursuant to F.S. Section 125.66(b), within ten (10) days of adoption of this Ordinance, a certified copy of same shall be filed with the Department of State by the County Clerk of the Circuit Court. This Ordinance shall take effect upon filing with the Department of State.

APPROVED AS TO FORM

By: Joseph A Morrissey
Office of the County Attorney