

ORDINANCE NO. 2015-08

AN EMERGENCY ORDINANCE OF GULF COUNTY, FLORIDA; WHEREBY REPEALING GULF COUNTY ORDINANCE NO. 97-02 AND THERAFTER AMENDMENTS GULF COUNTY ORDINANCE NO. 13-09 AND 14-03 THERETO TITLED "ALLOWING FOR VEHICULAR TRAFFIC ON CERTAIN COASTAL BEACHES WITHIN GULF COUNTY, FLORIDA"; REPEALING THE ORDINANCE IN ITS ENTIRETY AND REPLACING ALL PRIOR AMENDMENTS AND REGULATIONS TO THE ORDINANCE HEREIN; HEREINAFTER PROVIDING FOR A PERMIT AND REQUIEMENTS TO OBTAIN THE SAME; PROVIDING FOR A PERMIT FEE; ESTABLISHING A SYSTEM FOR MONITORING THE ISSUANCE OF DECALS; ESTABLISHING THE FORMAT FOR DECALS; LIMITING AND DESIGNATING BEACH ACCESS POINTS; PROVIDING FOR A SPEED LIMIT; PROVIDING FOR RULES FOR OPERATION OF VEHICLES ON THE BEACHES; PROVIDING FOR PENALTY FOR VIOLATION; PROVIDING FOR REPEALER, SEVERABILITY, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; PROVIDING FOR EMERGENCY PROVISION AND CLASSIFICATION FOR WAIVING STATUTORY NOTICE REQUIREMENTS FOR ITS IMMEDIATE ADOPTION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Gulf County, Florida (hereinafter "Commissioners"), found and determined at its regular meeting of June 23, 2015 that Gulf County (hereinafter "County") shall amend its beach driving ordinance and regulations; and

WHEREAS, the Commissioners duly authorized, motioned and properly voted to adopt this emergency ordinance following recent public discussion, community involvement and the input and contributions of various county officials; and

WHEREAS, the Commissioners have publically discussed and revised the prior regulations through various ordinance amendments and have deemed it a time sensitive public issue demanding immediate action and revision of the current regulations through ordinance to promote and ensure continued public safety as well as preserve environmental sensitive areas of the County and the ability for proper implementation and enforcement of both; and

WHEREAS, Gulf County, Florida contains many miles of beaches which are inaccessible to the public without the availability of vehicular traffic along those beaches, and

WHEREAS, the Commissioners have found it necessary to regular the traffic along the beaches described in Section I of this Ordinance in order to protect and promote the health and safety of the citizens of this County and simultaneously protect the environment; and

WHEREAS, the Commissioners have historically addressed and met the changing needs and growth of Gulf County's beaches in use and accessibility beginning with Gulf County ordinances in whole or part of their language and regulations and herein incorporated by reference (Gulf County Ordinances 84-03, 87-03, 88-05, 89-05, 90-10, 90-14, 92-07, 94-11, 97-02, 13-09, 14-03) and for complete repeal and replacement by the following updated regulations, and

WHEREAS, pursuant to Florida Statute 125.01 the County shall have the power to carry on county government inclusive of the power to adopt its own rules that which are not inconsistent with general or special law; and

WHEREAS, pursuant to Florida Statute 125.01 the County shall reserve the powers to adopt ordinances necessary for the exercise of its powers and perform acts which are in the common interest of the people of Gulf County and exercise all powers and privileges not specifically prohibited by law; and

WHEREAS, the Commissioners have acknowledged the statutory notice requirements (Florida Statute 125.66) of consideration and adoption of an emergency ordinance and hereby vote in the affirmative by the required four/fifths of membership of declaring the emergency and authorizing vote to waive the required notice requirements and hereby adopt for immediate enactment as necessary; and

WHEREAS, pursuant to Florida Constitution Article VIII Section 1(f) the County shall have such power of self-government as is provided by general or special law and this Commission may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law; and

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Gulf County, Florida, that:

Section 1. Beaches driving areas of regulation

It shall be unlawful for any person, firm, corporation, or other entity, to drive, or cause to be driven any vehicle on the following described beaches of Gulf County, in the State of Florida:

Those beaches fronting on the Gulf of Mexico, running from Indian Pass to the East to the T.H. Stone Park in the North. Said beaches lying and being in the following Sections: Section 25 and 36, Township 8 South, Range 12 West; Sections 1 & 12, Township 9 South, Range 12 West; Section 6, 7, 18, 19, 20, 21, 22, 23, 24, 28, 29 and 33, Township 9 South, Range 11 West; and Section 19, 20, 21 and 22, Township 9 South, Range 11 West.

Unless said vehicle and driver have complied with the requirements of this Ordinance. Upon compliance with the registration requirements of this Ordinance, driving on the above described beaches shall be allowed subject to the restrictions of this Ordinance.

Section 2. Definitions and Prohibitions

a. A vehicle is defined as any mode of transportation with two, three, four or any other number of wheels if propelled by power other than human muscular power. For purposes of this Ordinance, the following vehicles as defined in Florida Statutes 320.01, are specifically prohibited, are specifically prohibited driving on the beach; recreational vehicles, travel trailers, camping trailers, campers, motor homes, private motor coaches, conversion vans, tractor-trailers

or semi-trailer, vehicles primarily designed as temporary living quarters for recreational, camping or travel use, either with motor power or mounted on or drawn by another vehicle.

b. Beach access areas (also referred to as *legal access points* herein) is defined as those public beach access points within Gulf County, Florida identified by the Gulf County Public Parks and or Tourist Development Council signage, including boardwalks, walkways, and dedicated parking areas, and the areas on the Public Beach beginning at the entrance of the beach access point perpendicular with the applicable road right of way to the water's edge. (Gulf County beach and waterfront property owners with proper annual permitting of vehicle(s) shall be permitted access directly to those authorized beach areas for driving from their directly adjacent beach and waterfront properties that remain in strict compliance with all other state and local laws). Gulf County designated beach access areas/legal access points shall be identified by the Board of County Commission through its administrative staff and shall amend and modify as is necessary and authorized by vote of the Board. Those identified exempt property owners shall be held to strict adherence with all local and state regulations including but not limited to Florida Statute 161.58 as well as protection and non-disturbance of coastal native vegetation consistent with the Beach and Shore Preservation Act and related state restrictions.

c. Pursuant to Gulf County Leave No Trace Ordinance No. 2015-07 and hereinafter authorized by this Ordinance, the use of authorized and identified motor vehicles is hereby authorized on the designated public beaches of Gulf County for enforcement of this ordinance and other Gulf County beaches ordinances, provided that such vehicles and trailers are owned, leased or otherwise controlled by Gulf County. Such vehicles must use designated and approved dune cross-overs for ingress and egress to aforementioned public beaches.

d. Before any vehicle shall be allowed to access via beach access areas and operate on the beaches of Gulf County, Florida, in the above described area, a beach driving permit must be obtained for said vehicle.

e. Beach driving permits shall not be issued to any prohibited vehicle.

Section 3. Permitting and Fees

a. Beach driving permits shall be issued by the Tax Collector of Gulf County, Florida, at the Gulf County Courthouse and the Tourism Development Council (TDC) Offices located at the Gulf County Welcome Center both located in Port St. Joe, Florida during regular business hours and where TDC staff develops and receives prior Board approval for additional locations for sale and issuance of permits.

b. Beach driving permits shall be issued for a period of one (1) year and shall thereafter expire unless expressly provided otherwise herein.

c. The beach driving permit fees shall be structured as follows:

- i. Annual Beach Driving Permits – Gulf County Resident and or Property Owner
\$30.00

- ii. Annual Beach Driving Permits – Non County Resident \$300.00
- iii. Senior Citizens (65 or older)/ Disabled Citizens that are either documented Gulf County Taxpayer or Gulf County Resident special exemption and one time administrative fee of \$3.00
- iv. Annual commercial driving permits issued to local Gulf County businesses for beach rental vehicles shall have the annual fee and allotment of permits determined by the county administrator.

Section 4. Decal system

A decal shall be provided with each Beach Driving Permit sold.

- a. The decal system for vehicles permitted to drive on the beaches shall include the following:
 - i. One decal shall be issued for each vehicle.
 - ii. The decal shall be of different colors based on the expiration date.
 - iii. The decal shall be numbered to provide for monitoring and accounting.
 - iv. The Gulf County Sheriff's office shall be notified of the number and name of lost or stolen decals.
 - v. A replacement fee of \$20.00 shall be charged for lost or stolen decals.
 - vi. The decal shall be affixed to the permitted vehicle on the vehicle's rear window on the driver's side. If no such space is available, the decal shall be otherwise conspicuously displayed on the vehicle.

Section 5 Application and Affidavit

Any individual applying for a permit must provide the following information:

- a. Name.
- b. Address.
- c. Type of vehicle.
- d. Tag number.
- e. Valid drivers license.
- f. Proof of current insurance through expiration date of proposed permit
- g. Proof of Ownership of Vehicle

Each applicant shall sign the beach driving application and an accompanying statement of responsibility acknowledging the rules and regulations governing the operation of vehicles on the beaches of Gulf County, Florida, and agreeing to be bound by the terms and conditions thereof.

Section 6. Rules and Regulations Compliance

A pamphlet and copy of this Ordinance shall be provided with each permit sold stating the following rules which, by this Ordinance, are adopted by Gulf County, Florida:

- a. Maximum speed allowed on the described beaches is to be 15 mph or such lesser speed as posted;
- b. Pedestrians and pets shall have the right of way.
- c. Driving in, on or over sand dunes is strictly prohibited.
- d. Obtaining access to the above described beaches by a route other than a county designated beach access point is strictly prohibited.
- e. Driving in, on or over vegetation is strictly prohibited.
- f. No litter is to be left on the beaches; litter shall include, but not be limited to, fish bait, discarded fish or any other form of waste, whether taken from the gulf or removed from the vehicle.
- g. The person to whom the permit is issued is responsible under this ordinance for the conduct of the occupants of his or her vehicle.
- h. Reckless driving along the public beach as designated in this Ordinance is prohibited.
- i. Any person driving or operating a vehicle on the public beaches as designated in this Ordinance must possess a valid driver's license.
- j. Vehicles are prohibited from entering, driving or parking landward of the vehicular buffer zone on the beaches adjacent to the St. Joseph Bay Aquatic Preserve. This zone is designated by signage which is physically located on the beach in the affected areas. This restriction applies to both adjacent beach waterfront property owners as well as all other permit holders.
- k. The public beaches adjacent to the Aquatic Preserve shall be closed to vehicular traffic on those days when extremely high tides make that beach impassable without travel over dunes or vegetation.
- l. Vehicular driving is prohibited on the beaches adjacent to the Aquatic Preserve from May 1 until October 31 of each year during the time after Sunset and before Sunrise.

The Gulf County Tax Collector and/or Gulf County Tourist Development Council staff shall provide each purchaser of a permit with a map showing the beaches designated for permitted driving and the current legal access points to the beaches described above and as defined by the Board of Commissioners.

Section 7. Violation and Fines

Violation of this Ordinance shall be punishable as follows:

- a. Driving on the beach without first having obtained a valid permit shall result in a fine of \$500.00** for a first time offense. For a second offense, the fine shall be \$750.00.
**Upon issuance of a citation, the violator may purchase a beach driving permit through Gulf County Tax Collectors Office within seven (7) calendar days of receipt the violation and thereafter upon proof of identification and proof of purchase of annual permit to the Clerk of Court may elect to enter a guilty plea to the citation and simultaneously shall reduce the penalty to a total of \$100 in addition to the annual permit fee paid.

- b. Racing vehicles on the beach or pulling skiers from any moving vehicle on land shall result in a \$500.00 fine.
- c. Production of any excess noise from any vehicle which shall disturb the peace shall result in a \$250.00 fine. Failure of any vehicle to have proper mufflers, or having a muffler for which bafflers have been removed shall be prima facie evidence of violation of this Section.
- d. Gaining access to the beaches by a route other than a designated legal access point shall result in a fine of \$500.00 in addition to any other fines or penalties imposed pursuant to state law.
- e. Any other violations of this Ordinance shall result in a \$250 fine for the first offense and \$400 fine for a subsequent offense.
- f. Any permit holder accumulating three or more violations of this ordinance shall have his or her beach driving permit revoked and shall be thereafter ineligible to apply for or obtain any other Gulf County beach driving permit. An applicant whose rights have been affected by such a revocation may petition the Gulf County Commission for reinstatement.

Section 8. Repealer.

Any and all ordinances including but not limited to Gulf County Ordinances 84-03, 87-03, 88-05, 89-05, 90-10, 90-14, 92-07, 94-11, 97-02, 13-09, 14-03 as well as any and all ordinances in conflict herewith are hereby repealed to the extent of any conflict.

Section 9. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with any conflicting state general or special law controlling the Gulf County Beach Driving Permit Fees, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part.

Section 10. Modification.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the Ordinance adopted by the Board and filed by the Clerk to the Board.

Section 11. Severability.

If any provisions or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 12.

Effective Date.

This ordinance shall have an effective date of June 23rd, 2015.

Following the emergency introduction, reading and discussion, the foregoing Ordinance was offered by Commissioner Yeager, who moved its adoption. The motion was seconded by Commissioner McLemore and, being put to vote requiring a 4/5 majority approval for emergency adoption, the vote as follows:

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|-----------------------|------------|--------------------|------------|
| Commissioner Yeager | <u>yes</u> | Commissioner Quinn | <u>yes</u> |
| Commissioner McDaniel | <u>yes</u> | Commissioner Bryan | <u>no</u> |
| Commissioner McLemore | <u>yes</u> | | |

DULY PASSED AND ADOPTED THIS 23rd day of June, 2015

ATTEST: REBECCA NORRIS
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF GULF COUNTY

BY: Rebecca L Norris
DEPUTY CLERK

BY: Ward McDaniel
CHAIRMAN WARD MCDANIEL

APPROVED AS TO FORM:

By [Signature]
Jeremy T.M. Novak, Gulf County Attorney

