

TOWN OF SEABROOK ISLAND

EMERGENCY ORDINANCE NO. 2024-01

ADOPTED OCTOBER 22, 2024

AN EMERGENCY ORDINANCE ADOPTING TEMPORARY AMENDMENTS TO SECTION 32-42 (VEHICLE USE), SECTION 32-44 (BEACH RULES FOR DOMESTIC HOUSEHOLD ANIMALS/PETS), AND SECTION 32-51 (FIRES ON THE BEACH) OF THE TOWN CODE FOR THE TOWN OF SEABROOK ISLAND, AND PROHIBITING PUBLIC ACCESS TO CERTAIN AREAS OF THE BEACH DURING THE NIGHTTIME HOURS FOR THE DURATION OF THE SAND REPLACEMENT AND SEAWALL MAINTENANCE PROJECTS ON THE BEACHES OF SEABROOK ISLAND

WHEREAS, emergency erosion conditions have occurred, and continue to occur, on the beaches of Seabrook Island facing the Atlantic Ocean resulting from coastal flooding, storm surge and subsequent king tides, wind and wave events; and

WHEREAS, to address issues related to erosion, the Seabrook Island Property Owners Association ("SIPOA") has received permits from the South Carolina Department of Environmental Services ("SCDES"), the state agency formerly known as the South Carolina Department of Health and Environmental Sciences Control ("SCDHEC"), for sand transfers and seawall maintenance along the beaches of Seabrook Island ("Beach Projects"); and

WHEREAS, in connection with the Beach Projects, the Town Council has authorized SJ Hamill Construction, LLC ("Contractor") to operate certain motor vehicles on the beaches of Seabrook Island between October 1, 2024, and December 31, 2024, via Resolution 2024-36 approved on September 24, 2024; and

WHEREAS, the Town has determined that the Contractor's use of vehicles on the beach in connection with the Beach Projects, as permitted by Resolution 2024-36, cause an immediate threat to public safety for all beachgoers, wildlife or marine life, and designated critical habitat areas, including shorebird and turtle nesting areas while they are in motion; and

WHEREAS, these temporary emergency conditions are expected to be alleviated when the Contractor completes the Beach Projects by December 31, 2024; and

WHEREAS, the Town Council of the Town of Seabrook Island ("Town Council") now desires to authorize and to establish temporary emergency protocols for all residents and visitors of Seabrook Island to reduce the current threat to public safety caused by the conduct of the Beach Projects by amending certain provisions of Chapter 32, Article II, of the Town Code for the Town of Seabrook Island ("Town Code"); and

WHEREAS, Section 2-345 of the Town Code allows for the enactment of emergency ordinances "[t]o meet public emergencies affecting life, health, safety or the property of the people"; and

WHEREAS, Section 2-345 of the Town Code further provides that “every emergency ordinance shall be enacted by the affirmative vote of at least two-thirds of the town council members present;” that “[a]n emergency ordinance is effective immediately upon its enactment without regard to any reading, public hearing, publication requirements, or public notice requirements;” and that “emergency ordinances shall expire automatically as of the 61st day following the date of enactment”; and

WHEREAS, this ordinance has been duly adopted by the affirmative vote of at least two-thirds of the Town Council members present at the meeting in which it was considered;

NOW, THEREFORE, pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, **BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE TOWN OF SEABROOK ISLAND:**

SECTION 1. Temporarily amending Section 32-42 of the Town Code. For the duration of this emergency ordinance, Section 32-42 of the Town Code is hereby amended to read as follows:

Sec. 32-42. Vehicles on the beach.

- (a) Motor vehicles of any type or kind shall not be driven or operated on the beaches of Seabrook Island, except for those expressly authorized below:
- (1) Vehicles operated by an official or employee of any municipal, county, state or federal agency, department or unit;
 - (2) Vehicles operated by an official or employee of any bona fide public safety agency, including, but not limited to, law enforcement, code enforcement, fire suppression and emergency medical services;
 - (3) Vehicles operated by an official or employee of any contractor, agency or entity providing goods or services on the beach under contract with or at the request of the town;
 - (4) Vehicles operated by an official or employee of the following community organizations which are necessary for the performance of maintenance services, the provision of security services and/or the transportation of personnel and equipment on behalf of the organization:
 - a. Seabrook Island Property Owners Association;
 - b. Seabrook Island Club;
 - c. Seabrook Island Turtle Patrol;
 - d. Seabrook Island Utility Commission;

e. St. Christopher Camp and Conference Center;

- (5) Small open motorized vehicles and medical devices may be operated by, or for the benefit of, individuals who have a physical or mental disability which: i) is recognized by state or federal law, and ii) which would otherwise preclude their use and enjoyment of the beach;
 - (6) Class 1 pedal-assist electric bicycles which are duly permitted by the Seabrook Island Property Owners Association for use within the Seabrook Island Development and which display a valid SIPOA decal while operating on the beach. For the purposes of this section, "class 1 pedal-assist electric bicycles" shall have the same meaning as "electric-assist bicycles" and "bicycles with helper motors," as defined in S.C. Code of Laws, § 56-1-10; and
 - (7) Any other vehicles deemed essential by the town and duly operating under one of the following types of special vehicle use permits:
 - a. *Standard vehicle use permits.* Standard vehicle use permit requests shall be submitted to the town administrator in writing no less than 30 days prior to the date upon which the applicant seeks to use a vehicle on the beach. Permit requests shall be forwarded by the town administrator to the town council for consideration at the next available town council meeting. If the town council determines that the use of a vehicle is essential to the applicant's intended purpose, then it may approve the issuance of a permit by resolution. In approving a permit, the town council may attach such reasonable conditions as it deems necessary to protect public health and safety.
 - b. *Emergency permits.* Emergency vehicle use permit requests shall be made to the town administrator, either verbally or in writing, as soon as practicable. If the town administrator determines that the use of a vehicle is necessary to mitigate an immediate threat to public health and safety, he or she may authorize a permit, either verbally or in writing. In approving a permit, the town administrator may attach such reasonable conditions as he or she deems necessary to protect public health and safety.
- (b) Except in cases of an emergency, or when expressly authorized by resolution of town council, vehicles which are authorized to be driven or operated on the beach pursuant to this section shall comply with the following requirements at all times:
- (1) Vehicles shall be operated in such a manner so as not to endanger or unreasonably disturb beachgoers, wildlife or marine life, and designated critical habitat areas, including shorebird and turtle nesting areas;
 - (2) Vehicles shall not exceed a speed of ten miles per hour when operated on the beach;

- (3) Vehicles shall be operated on the wet sand; vehicles may not be operated on dry sand except to gain access to the wet sand;
- (4) Vehicles shall not be driven onto or within any dune or vegetated area;
- (5) Vehicles shall enter the beach only from authorized access points; and
- (6) All vehicles being operated on the beach, excluding those specified in subsections (a)(5) and (a)(6), shall be equipped with four-wheel drive.

SECTION 2. Temporarily amending Section 32-44 of the Town Code. For the duration of this emergency ordinance, Section 32-44 of the Town Code is hereby amended to read as follows:

Sec. 32-44. Beach rules for domestic household animals/pets.

(a) *General requirements for domestic household animals/pets.* Domestic household animals/pets shall not be allowed on any beach within the municipal limits of the town except as provided herein.

(1) *Restricted area.* A restricted area is hereby established for that area of the beach lying between Boardwalk #1 and Captain Sams Inlet. No person shall bring or otherwise allow any domestic household animal/pet into the restricted area at any time, whether on a leash or off of a leash.

(2) *Designated on-leash areas.* There are hereby established two designated on-leash areas in the following locations:

- a. That area of the beach lying between Boardwalk #1 and the southernmost boundary of the Seabrook Island Club's "Beach Club" property; and
- b. That area of the beach beginning at a line approximately 300 yards northwest of Boardwalk #9 and continuing in a northwesterly direction to Privateer Creek.

Within the designated on-leash areas, no person shall bring or otherwise allow any domestic household animal/pet onto the beach unless the domestic household animal/pet is on a leash at all times.

(3) *Designated off-leash area.* In all other areas of the beach other than the restricted area and the limited restriction area described above, the following requirements shall apply:

(4) *Map.* A map illustrating the "Temporary Beach Rules for Pets" areas is attached hereto as "Exhibit A." The map contained in the attached "Exhibit A" is hereby adopted and incorporated by reference as if fully set forth herein.

(5) *Definitions.*

- a. For purposes of this section the term "effectively controlled" shall mean that the behavior of a domestic household animal/pet is restrained by a competent person from: (A) entering any area on or adjacent to the beach in which a domestic household animal/pet is prohibited; (B) destroying or damaging any property; (C) attacking or threatening to attack any person or any other domestic household animal/pet in any manner; or (D) being a nuisance to other beach goers.
 - b. For purposes of this section, the term "nuisance" shall mean causing annoyance, inconvenience or discomfort to the public health, safety and welfare.
 - c. For purposes of this section the term "competent person" shall mean a person of suitable age and discretion and physically capable of restraining and controlling the domestic animal/pet in his or her care in order to prevent harm to persons, property or to other animals.
 - d. For purposes of this section, the term "on a leash" shall mean that the domestic household animal/pet is restrained by a competent person using a physical restraint made of cord, rope, strap, chain or other material effective for restraining the type and size of domestic household animal/pet, the physical restraint being no more than 16 feet in length, secured to the animal's collar or harness and continually held by a competent person.
 - e. For purposes of this section, the term "off a leash" shall mean that the domestic household animal/pet is not on a leash as defined herein. Domestic household animals/pets under voice control or under control of remotely operated devices such as electronic collars shall be considered to be "off of a leash."
- (6) No later than one year from the effective date of this section, council shall review the terms of this section, and determine whether it has worked effectively and achieved the objective of balancing the interests of all users of the beach. Following such review, council shall amend this section, if and to the extent, it deems necessary.

SECTION 3. Temporarily amending Section 32-51 of the Town Code. For the duration of this emergency ordinance, Section 32-51 of the Town Code is hereby amended to read as follows:

Sec. 32-51. Fires on the beach.

- (a) *In general.* No person shall build, start, ignite or maintain a fire or open flame, or use any propane fired grill, cooker, or heating device heated by fire, seaward of the primary frontal sand sun or any seawall or rock revetment.
- (b) *Exceptions.* The provisions set forth in paragraph (a) of this section shall not be deemed to prohibit or otherwise limit any person possessing a valid permit from the Seabrook Island Property Owners Association from building, starting, igniting or maintaining a fire

above the high-water mark between the southernmost boundary of the Seabrook Island Club's "Beach Club" property and a line extending approximately 300 yards northwest of Boardwalk #9.

SECTION 4. Nighttime beach closure. For the duration of this emergency ordinance, public access to that portion of the beach lying between the southernmost boundary of the Seabrook Island Club's "Beach Club" property and Captain Sams Inlet shall be prohibited between sunrise and sunset.

SECTION 5. Severability. If any section, subsection, paragraph, clause, or provision of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, it shall be construed to have been the legislative intent of Town Council to pass said ordinance without such unconstitutional provision, and the validity of all remaining sections, subsections, paragraphs, clauses, or provisions of said ordinance shall not be affected thereby. If said ordinance, or any provision thereof, is held by the final decision of a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

SECTION 6. Conflicting Ordinances Repealed or Suspended. For the duration of this emergency ordinance, all other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby suspended.

SECTION 7. Effective Date. This emergency ordinance shall be effective immediately upon enactment and shall expire automatically on the sixty-first (61st) day following the date of enactment (December 22, 2024).

SIGNED AND SEALED this 24TH day of OCTOBER, 2024, having been duly adopted by Town Council for the Town of Seabrook Island on the 22nd day of October, 2024.

TOWN OF SEABROOK ISLAND



Bruce Kleinman, Mayor

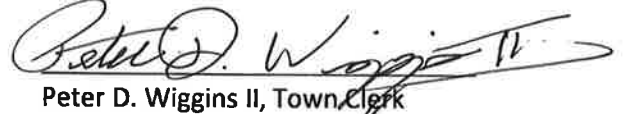
LEGAL REVIEW



Stafford J. McQuillin, Town Attorney

Approved as to legal form only

ATTEST



Peter D. Wiggins II, Town Clerk

EXHIBIT A

To Emergency Ordinance 2024-01

"Temporary Beach Rules for Pets Map"



TEMPORARY BEACH RULES FOR PETS
(Pursuant to Emergency Ordinance 2024-01)

DESIGNATED ON-LEASH AREA

RESTRICTED AREA
(NO PETS ALLOWED)

DESIGNATED OFF-LEASH AREA

DESIGNATED ON-LEASH AREA