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JOSEPHINE VELTRI
COUNTY CLERK

BEFORE THE BOARD OF COUNTY COMMISSIONERS ~~DEPUTY~~

FOR TILLAMOOK COUNTY, OREGON

In the Matter of Establishing)	
Regulations on the Use of the)	ORDINANCE
Bayocean Peninsula; Providing)	
for Administration, Enforcement)	NO. 42
and Penalties; and Declaring)	
an Emergency)	

The Board of Commissioners for Tillamook County ordains as follows:

Findings of Fact

The Bayocean Peninsula is a sand spit situated between Tillamook Bay and the Pacific Ocean, consisting of primary and secondary dune formations, ocean beaches and bay shore lands, and limited upland areas, all of which have historically been subject to severe erosion and breaches; and

WHEREAS, this sand spit is approximately 4 miles long, extending from Pitcher Point on the south to Kinchloe Point on the north; and

WHEREAS, a substantial portion of the sand spit is platted as the Bayocean town site, with dedicated streets and avenues, but most of the Bayocean town site and remaining sand spit is in public ownership, and all is largely unsurveyed, without positions as to publicly dedicated streets or property boundaries; and

WHEREAS, the entire peninsula is undeveloped and is situated within an underlying zoning of recreation management, and the overlay zones for beaches and dunes, and shore lands; and

WHEREAS, development on the peninsula is therefore severely restricted and land uses must comply with standards under the existing zone and overlay designations that would enhance an "Exceptional Aesthetic and Scenic Resource;" and

WHEREAS, the Bayocean Peninsula was breached in 1952 due to excessive erosion and storm conditions, causing the peninsula to collapse and erode, resulting in the transport of coarse beach sediments into the bay and the destructions of one-third of the bay's oyster beds; and

WHEREAS, in order to repair this breach and begin to stabilize the peninsula, in 1956 the Federal government obtained 54 perpetual easements on 356.27 acres of the peninsula, 140 acres of which were owned by the County; and

WHEREAS, the referenced easements provide the government with the dominant estate to utilize the described premises for all purposes necessary or convenient for the construction, operation, protection and maintenance of a sand dike and fill, and all appurtenances thereto in, upon, over and across the 356.27 acres premises; and

WHEREAS, the County and U. S. Soil and Conservation Service subsequently undertook the planting of European beach grass and other dune stabilization measures to the extent that the sand spit has now been conditionally stabilized, but continues to be a fragile ecosystem; and

WHEREAS, the Bayocean peninsula is now prime habitat for birds and other wildlife, and is used extensively by the public for birding, hiking and other forms of passive recreation; and

WHEREAS, on the entire peninsula there are presently 38 private ownerships of which 20 have no assessed value because they are either in the ocean or west of the zone line, and with the remaining 18 parcels having a total assessed value of \$3,120; and

WHEREAS, the only vehicular access on to the sand spit is the Pitcher Point dike road, which terminates at a parking area approximately one mile north from Bayocean County Road; and

WHEREAS, an unimproved road, constructed by the Corps of Engineers during the South Jetty construction, continues to Kinchloe Point from the parking lot, incidentally passing over certain platted streets but blocked by a locked gate at the parking lot; and

WHEREAS, motor vehicles have in the past circumvented the locked gate, driven along the bay shore and have been operated off the unimproved road in the conditionally stabilized dunes, thereby initiating erosion along the bay shore, damaging road shoulders, destroying beach grass and stabilization measures, and causing dune destabilization and detrimental sand transport; and

WHEREAS, continued unregulated use of motor vehicles threatens the physical integrity of the private and public lands, destroys wildlife habitat, and interferes with passive recreational uses; and

WHEREAS, the Board of Commissioners hereby finds that in order to maintain the physical stability of the Bayocean Peninsula, ensure the safety of pedestrians, and protect the integrity of existing passive recreational uses, as well as the integrity of intermingled private property, the following regulations are a matter of County concern and are necessary for the protection of public health, safety and welfare; NOW THEREFORE,

Section I: Scope

This ordinance shall apply to all that portion of the Bayocean Peninsula lying north of Bayocean County Road on the east side of Meares Lake and all that portion lying north of the northerly terminus of Forth Street in Cape Meares and on the west side of Meares Lake. This ordinance does not apply to those portions of the ocean beaches regulated by the State Parks Department, pursuant to ORS Chapter 390.

Section II: Motor Vehicle Violations

It shall be unlawful for any person to cause or permit any vehicle owned or controlled by him to be parked or operated in violation of any regulation posted or marked pursuant to this ordinance. The term "vehicle" includes automobiles, trucks, buses, motorcycles, off-road vehicles and all other powered vehicles.

Section III: Procedures

A. For purposes of charging, citing, or proving any violation under this ordinance, the registered owner of the vehicle is presumed to be the person who unlawfully parked or operated the vehicle, but the presumption may be overcome by evidence specifically identifying the person who in fact so parked or operated the vehicle.

B. Violations under this ordinance may be charged by an unsworn written notice complying with ORS 810.425 and in the form prescribed by the Board of County Commissioners. If a person thus cited fails to appear or post bail within the time provided by the notice, or to respond to a notice sent by the Board of Commissioners, the Court may on County's application issue and serve by mail an order requiring appearance to answer the charge, and, for violation of such order, punish defendant for contempt as prescribed by law.

C. Citations or notices charging violations may be issued by the Sheriff, by any Deputy Sheriff, or by any other officer or employee of the County authorized and designated by the County Sheriff for such purpose.

D. The Board of County Commissioners may establish and operate a violations Bureau or a Clerk, to administer this ordinance, maintain a file of pending complaints, ascertain addresses of defendants, accept bail, prepare notices and orders, and perform such other services in aid of enforcement as may be directed by the Court having jurisdiction of the offence.

Section IV: Penalty; Bail

The penalty for violating any regulation under this ordinance shall be a fine not exceeding \$500; except as provided by Section V(D). Bail is established at Three Hundred Dollars and

No Cents (\$300.00) for each violation, except parking violations for which bail is hereby established at Twenty-Five Dollars and No Cents (\$25.00).

Section V: Motor Vehicle Towing and Impoundment

A. If a vehicle is parked in a manner which constitutes a hazard or obstruction to motor vehicle traffic, then any person authorized to issue citations under this ordinance may cause the vehicle to be towed away and impounded and shall thereupon proceed in the manner prescribed by ORS 819.120. The right to a hearing shall be accorded thereafter as prescribed by ORS 819.180 and 819.190, before a hearings officer appointed by the Board of County Commissioners.

B. If, in any other case, any vehicle is parked unlawfully and is not moved for a period of 24 hours after a citation has been issued, then the person designated to enforce this ordinance may cause the vehicle to be towed and impounded and shall thereupon proceed in the manner prescribed by ORS 819.110, after giving notice as prescribed by ORS 819.170. The right to a hearing shall be accorded as prescribed by ORS 819.190.

C. Subject to administrative hearing, the vehicle towed and impounded shall be held at the expense of the owner or other person entitled to possession. If the vehicle is not redeemed within 30 days after the time has expired to demand a hearing, or within 30 days after the impoundment if found to be lawful after hearing, the vehicle shall be disposed of as described in ORS 819.210 to 819.260.

D. ORS 819.100 prohibiting the abandonment of vehicles upon a highway or upon any public or private property, is incorporated in and made a part of this ordinance, with reference to vehicles abandoned upon the Bayocean Peninsula. A citation charging violation of this section shall be filed with the District Court on a uniform traffic citation and penalties for violation shall be the same as prescribed by said statute.

Section VI: Regulations

A. Pitcher Point Dike Road and parking lot

1. Motor vehicles shall be parked only in the parking lot and in parking areas designated by signs along the Pitcher Point Dike Road.
2. Any motor vehicle parked in violation of this section is subject to citation and may be towed and impounded pursuant to Section V.(A) or V.(B) of this ordinance.
3. Unoccupied motor vehicles shall not remain parked for a period exceeding 72 consecutive hours in a one week period.
4. Parking of occupied motor vehicles, including motor homes and recreational vehicles is prohibited between 12:01 a.m. and 4:00 a.m.

B. Areas other than Pitcher Point Dike Road and parking lot

1. The operation, use and parking of motor vehicles is strictly prohibited except by publicly-owned motor vehicles on official business, by a tow truck dispatched by a law enforcement officer, or by authorized privately-owned vehicles in the manner hereinafter set forth, for which a valid permit has been issued pursuant to this ordinance.
2. Authorized private vehicles with a valid permit may be used and operated only upon the unimproved roadway between the parking lot gate and the northerly gate, and shall be parked only in the manner and location set forth in Section VI (B)(3) of this ordinance.
3. Authorized private vehicles with a valid permit may be parked only within an eight foot wide strip along either side of the unimproved roadway between the parking lot gate and the northerly gate or in designated parking areas as hereafter established and signed for parking.
4. Any vehicle used or operated in violation of this section is subject to citation.
5. Any vehicle parked in violation of this section is subject to citation and may be towed and impounded pursuant to Section V(A) or (B) of this ordinance.
6. Horses and other equine animals are confined to travel upon the unimproved roadway north of the parking lot gate, and on horse trails designated as such by signs.

C. All areas of Bayocean Peninsula

1. The discharge of firearms is prohibited, except for shotguns during regulated waterfowl seasons in areas designated by the Oregon Department of Fish and Wildlife.
2. The operation of off-road vehicles is prohibited.
3. The maximum speed limit for all motor vehicles is fifteen (15) miles per hour.

D. It shall be unlawful to possess a duplicate key to the parking lot gate or to duplicate, or cause to be duplicated, such a key unless such duplicate key was issued under a permit pursuant to this ordinance.

Section VII: Administration; Permit Required

A. All motor vehicles, except publicly owned vehicles on official business, are required to have a permit, as hereinafter set forth, for the operation, use and parking in all areas of the Bayocean Peninsula except Pitcher Point Dike road and the parking lot.

B. Persons owning property on Bayocean Peninsula are entitled to apply for and receive a permit for their vehicle(s), upon signing and submitting an application form provided by the Board of Commissioners.

1. Persons receiving a permit under this subsection may pay for and receive a key to the gate from the County Sheriff for the purpose of using, operating and parking permitted motor vehicles in a manner consistent with the provisions of this ordinance.
2. Property owners receiving a permit under this subsection are entitled to retain such permit for only so long as they retain their ownership interest in the Bayocean property.
3. Only one permit and key shall be issued for each Bayocean property regardless of the number of ownership interests in each such property.
4. Upon the sale or transfer of the ownership interest for which a permit was issued, pursuant to this subsection, such permit shall be and is thereby revoked and is of no further force and effect.
5. It shall be unlawful, and is a violation of this ordinance, for failure of a permittee to return the gate key and permit to the Sheriff upon the sale or transfer of the property for which a permit has been issued pursuant to this subsection.

C. Any other person may apply for a permit for the operation, use and parking of a motor vehicle on the Bayocean Peninsula.

1. Application for such a permit will be on forms provided by the Board of Commissioners, and shall describe the dates, times and proposed uses.
2. Permits may be issued with conditions pursuant to this subsection solely for the purposes of salvage of aircraft or watercraft, and related personal property by the owners thereof; or for private contractors under contract with a public agency for maintenance or construction of public facilities or fixtures.

