

ORDINANCE NO. 1350

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING ARTICLE II OF CHAPTER 22 OF THE CITY'S CODE OF ORDINANCES RELATED TO STOPPING, STANDING AND PARKING OF MOTOR VEHICLES; MAKING FINDINGS OF FACT AND STATEMENTS OF LEGISLATIVE INTENT; REQUIRING BUSINESS PARKING LOTS TO BE CLOSED OR ACTIVELY SUPERVISED WHEN THE BUSINESS ASSOCIATED WITH EITHER THE PARKING LOT OR THE SPACES WITHIN A COMMON LOT IS CLOSED; REQUIRING ALL OWNERS OF SUCH A PARKING LOT, SEVERALLY, TO EFFECT SUCH CLOSURE OR SUPERVISION; DEFINING "CLOSE" AND "SUPERVISE"; PROHIBITING PERSONS FROM DISTURBING ANY BARRIER ERECTED TO CLOSE A PARKING LOT; PROVIDING DEFINITIONS; PROVIDING CIVIL AND CRIMINAL PENALTIES; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City has increasingly observed nuisance activity within the private parking lots of closed and unoccupied businesses throughout the City, including by way of example, consumption of alcoholic beverages, public intoxication, underage drinking, fights, dealing and using illegal drugs, and camping and sleeping in cars without adequate sanitary facilities; and

WHEREAS, the City finds that the nuisance activity occurs in private parking lots associated with a business that is closed and unoccupied for a night, a season or indefinitely; and

WHEREAS, the City finds that parking lots of closed businesses are often a valuable resource to the lot owner and to neighboring businesses who are open when the lot owner's business is closed, and therefore intends for such parking lots to continue to be open after hours if the lot owner desires, but only if the lot is responsibly managed; and

WHEREAS, the City finds and determines that each owner of a business parking lot, jointly and severally, has a duty to the community to control and manage the lot when the business is closed to prevent the lot from being a breeding ground for nuisances and criminal mischief; and

WHEREAS, the City finds and determines that the observed nuisance behaviors will be significantly diminished if either the lot is effectively closed or actively managed.

NOW THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. The forgoing recitals are incorporated into this law as statements of legislative intent.

SECTION 2. From and after the effective date of this ordinance Section 22-24 of the Code of Ordinances of the City of Panama City Beach is created to read as follows:

CHAPTER 22 TRAFFIC AND MOTOR VEHICLES

ARTICLE II Stopping Standing and Parking

Section 22-25. Control and use of business parking lots when business closed.

(a) The following words shall have the following meanings in this section:

Manager of a business parking lot means, all persons, jointly and severally, with a legally enforceable, exclusive or non-exclusive real property right to exclude others from entry, regardless of where each such person may reside or have its principle place of business, and includes owners or fee holders and their agents, tenants and their agents, and licensees and their agents who hold such a right.

Business parking lot (or sometimes parking spaces within a common or shared parking lot) means the private, real property designated, used or intended to be used by a business as the vehicular use or parking area required for that business by the City's Land Development Code, and for the purpose of this section such a lot and business are referred to as being *associated* with each other. In determining which spaces in a common or shared parking lot are associated with a business and hence constitute the *business parking lot* for that particular business, the number of spaces required for the business by the City's Land Development Code and the proximity of that number of spaces to the business shall control, even though a particular space or spaces may be associated with more than one business.

Close a parking lot means to prohibit unauthorized public parking of vehicles in the lot, to arrange to have unauthorized vehicles promptly towed from the lot and to post warning and information signs required by City Code section 22-19 or similar law.

Supervise a parking lot means to provide active, continuous and onsite supervision of the lot by a parking lot attendant who at a minimum is authorized and responsible to control vehicular access to the lot, to maintain peace and order within the lot and require persons in the lot to obey the law, to require offenders to leave the lot and to immediately seek assistance from law enforcement if needed to maintain order or enforce the law.

(b) Whenever the business associated with a business parking lot is not open to the public for business, then the associated parking lot must be closed or supervised, and each manager of the lot, jointly and severally, is obligated to make or cause to be made that closure or supervision.

(c) Whenever all the businesses associated with proximate parking spaces located in a common or shared parking lot are not open to the public for business, then the parking spaces associated with those businesses must be closed or supervised, and each manager of the common or shared lot is obligated to make or cause to be made that closure or supervision.

(d) Where a business parking lot is closed by one or more physical barriers, no person shall disturb any such barrier, or break the close of the lot, or enter the lot after the close is broken by another, regardless of whether any physical or permanent damage is done to the barrier.

(e) Nothing in this section shall be construed to prohibit owners, employees, vendors or others authorized by an owner, or emergency personnel, from entering a closed parking lot.

Sec. 22-26. Enforcement and penalties for parking lot violations of Section 22-25.

(a) The City finds that a violation of any provision in Section 22-25, or similar superseding section, (collectively Section 22-25) by an owner or a person using a parking lot presents a serious threat to the public health, safety and welfare which is irreparable and irreversible and of an itinerant or transient nature.

(b) Each violation of Section 22-25 shall constitute a separate, civil infraction within the meaning of Florida Statutes Chapter 162, Part II, punishable by a civil penalty in the amount specified below.

First violation of this Article: \$100.

Second violation of this Article: \$200.

Third and all subsequent violations of this Article: \$500.

A person who does not contest the civil citation for violation of Section 22-25 shall be subject to a civil penalty in the following amount:

First violation of this Article: \$50.

Second violation of this Article: \$100.

Third and all subsequent violations of this Article: \$250.

The penalty for uncontested civil citations may be paid directly to the City Clerk.

(c) Section 22-25 may be enforced by the issuance of a civil citation by a sworn police officer of the City who has reasonable cause to believe that a person has violated any section of this Article. All sworn police officers of the City shall be considered code enforcement officers for the purpose of enforcing every section of this Article. A citation issued under any section of this Article may be contested in the county court for Bay County, Florida. The civil citation shall contain the matters specified in § 162.21 Florida Statutes (2013), or subsequent, superseding legislation, in form approved by the Chief of Police. Any person who willfully refuses to sign and accept a citation issued pursuant to this section shall be guilty of a misdemeanor of the second

degree, punishable as provided in §§ 162.21(6), 775.082 & 775.083, Florida Statutes or subsequent, superseding legislation. In addition to the penalties specified in this Article, a person voluntarily paying a civil citation or convicted of a civil citation shall be required to bear all costs and fees imposed by the County Court or the office of the Clerk.

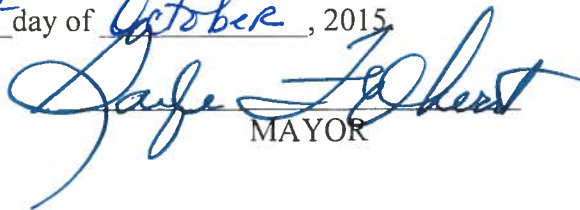
(d) The penalties provided here are cumulative to any other civil or criminal penalties available for violation of this the Panama City Beach Code of Ordinances or state law. Each calendar day that a violation shall occur or continue shall constitute a separate, and cumulative, offence.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 8th day of October, 2015.


MAYOR

ATTEST:


CITY CLERK

EXAMINED AND APPROVED by me this 8th day of October, 2015.


MAYOR

Published in the News Herald on the 16th day of September, 2015.
Published in the News Herald on the 1st day of October, 2015.
Posted on pcbgov.com on the 9th day of October, 2015.