

Ordinance Number 2005-24

AN ORDINANCE AMENDING THE WALTON COUNTY LAND DEVELOPMENT CODE BY CREATING SECTION 4.07.00, PROVIDING FOR WHITE SAND PROTECTION RESTRICTIONS, PROVIDING FOR PURPOSE AND INTENT PROVIDING FOR A WHITE SAND PROTECTION ZONE, PROVIDING DEFINITIONS, PROVIDING FOR IMPORTATION, TRANSFER, PROHIBITED USE, AND EXEMPTIONS, PROVIDING FOR REMOVAL OF PROHIBITED MATERIALS, UTILITIES, AND EXEMPTIONS, PROVIDING FOR CONTAINMENT, PROVIDING FOR PRE-APPROVAL, PROVIDING FOR EXEMPTIONS, PROVIDING FOR VIOLATIONS, PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners finds that the safety, health and welfare of the citizens of Walton County can adversely be affected by the use of materials that can harm the natural white sand beaches of Walton County; WHEREAS, Walton County has adopted a Land Development Code pursuant to Section 163 Florida Statutes to ensure the County's orderly growth and development;

WHEREAS, the Board of County Commissioners finds it prudent to amend its Land Development Code to respond to changing needs and conditions;

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Walton County, that the Walton County Land Development Code is hereby amended as follows:

Section 1. Title.

Section 4.07.00 White Sand Protection Restrictions of the Walton County Land Development Code is hereby created as follows:

4.0 7.00 White Sand Protection Restrictions.

4.07.01 Purpose and Intent. While it is recognized that within the Restricted Area, naturally occurring soil may not be of the white beach sand type, the purpose of this section is to maintain, preserve and protect the natural function and color of the fine to medium grained white sands of Walton County beaches. It is the intent of this section to prohibit the importation, use, and relocation of red clay and other prohibited materials that tend to discolor, darken or stain the natural white sands of Walton County beaches, and to prevent the transportation of prohibited soils whether by wind or water by requiring containment and removal of red clay and other discoloring, darkening or staining materials. The Walton County Board of County Commissioners acknowledges that the white sands of Walton County beaches promote tourism and enhance the quality of life of the residents of Walton County. The permanent discoloration, darkening or staining of the white sands on the beaches of Walton County would harm the public welfare making the enactment of this section necessary. The Board of County Commissioners hereby declares that red clay and all other prohibited materials that are capable of staining the natural white sands of Walton County beaches constitute a nuisance and irreversible harm to the people of the county.

4.07.02 White Sand Protection Zone. These restrictions shall apply to the area located south of Scenic Gulf Drive (Old 98) eastward from Okaloosa County line to its intersection with US 98 thence along US 98 to County Road 30A, thence south of County Road 30A eastward to the juncture of U.S. Highway 98 and the Bay County line. The restricted area shall also include any lakes and adjoining land surrounding said lake, when said lake abuts County Road 30A.

In the restricted area, there shall be no use of construction material that is subject to wind or water transport, and that permanently discolors the white beach sands. Such construction materials include, but are not limited to, red or yellow clay or sand.

4.07.03 Definitions. Unless the context clearly requires another meaning, the following words shall have the meanings provided herein:

Approved materials means mineralogical composition of white sand of a sufficiently similar gradation to the existing beach sand as determined by the County Engineer, the Plans Review Engineer or their designee, as applicable, with a Munsell Color Chart value of **8.00** or whiter and a chroma of 1.00 on the 2.5, 5, 7.5 or 10YR or 2.5Y scale when checked in a dry air condition. For road bed construction; oyster shell, limestone, white dolomite, or other approved material, shall be reasonably the same color as approved sand after exposure to the sun.

Approved supply or source means any entity, person, company or location by which or from which material is pre-approved to be provided, used or delivered from off-or on-site.

Darkening, discoloring or staining means having the ability to permanently change the color or darken the natural white sands of Walton County beaches or other approved material whenever coming into contact with such sands or materials.

Disturb means to loosen or move material by digging or other similar operation, whether or not such material is removed from the disturbed area.

Natural function means, but is not limited to, its function as soil material for vegetation, as material for natural protective barriers along the shorelines, as habitat for animals and as a recreational medium.

Permanently change means to darken, discolor or stain the sands of Walton County beaches for longer than six months.

Prohibited materials means any discoloring or staining materials, imported or transferred to a site which includes material with a Munsell Color Chart (2000 edition) value darker than 8.00 and a chroma greater than 1.0 on the 2.5, 5, 7.5, 10YR, or 2.5Y scale when checked in a dry condition or any other material which, in whole or in part, is composed of or contains clay or any other substance that would darken, stain or discolor the natural white sands of Walton County beaches and a grain size with over ten percent by weight of the sample outside the range stated under fine to medium grained sand.

Storm means tropical depression, tropical storm or hurricane.

Supplier means the owner of or the place of origin of a material.

Transfer for use means to transport by any mechanical or manual means, from parcel to parcel or within a parcel.

Use when used as a verb means to utilize a material to provide fill, to provide support, to establish an even grade, to shape the contours of land, or any similar purpose.

Walton County Beaches means all land waterward of the Coastal Construction Control Line (CCCL) and three hundred (300) feet landward of the CCCL or CR 30-A, whichever is less and any area within three (300) hundred feet landward of the mean high water line or, where applicable, the ordinary high water line of a coastal dune lake.

White Sand Protection Zone (WSPZ) means that area of Walton County located south of US Highway 98 eastward from the Okaloosa County line to County Road 30-A, thence south of County Road 30-A eastward to the juncture of US Highway 98 and the Bay County Line. The restricted area shall also include any coastal dune lakes and adjoining land surrounding the lake when the lake abuts County Road 30-A.

Wind or water transport shall mean the movement of imported or transferred material from the site of its initial or subsequent mechanical deposit from parcel to parcel or within a parcel or any other location by means of the naturally generated forces of wind, rain, or wave action.

4.07.04 Imponation.. transfer, and use prohibited; exemptions. No person may import or cause to be imported into the WSPZ of Walton County, Florida any construction or landscaping material that is not an approved material.

No person may use, or transfer for use, any prohibited material into the WSPZ in connection with any paving, road surfacing, filling, landscaping, construction work or any other improvement to real property.

No person may transfer from parcel to parcel any construction material that is not an approved material where such material is to be used in connection with any paving, road surfacing, filling, landscaping, construction work or any other improvement to real property in any part of the WSPZ whether leased or not.

This section shall not be construed to prohibit the importation or use of sod or plants to be used for landscaping.

The Board of County Commissioners may exempt the application of this section in particular projects or parts of projects upon determination by four-fifths' vote of the Board of County Commissioners that an emergency exists and that an immediate exemption is required to protect the public health, safety or welfare.

4.07.05 Removal of prohibited materials: utilities; exemptions. At such time as reconstruction, redevelopment, improvement or use of a roadway right-of-way uncovers or exposes prohibited materials, such materials must be immediately removed from the site and relocated from the WSPZ using such safeguards as are required by the County Engineer to prevent the release of such materials by wind, water, or other means within the parcel or onto adjacent parcels or waters or during transport of materials from the site. The removal of prohibited materials shall be required to a three foot depth beneath the plane of land surface. If a sand dune is impacted from edge to edge, removal shall be required for the area of disturbed or exposed prohibited material to a depth of three feet beneath the plane of land surface at each edge. Any prohibited materials not required to be removed shall be contained in accordance with this section.

At such time as any utility company, authority or, other entity that has acquired use of the county's rights-of-way, easements or other interest by permission, agreement or law in order to provide services to consumers, shall uncover or expose any prohibited material during the installation, maintenance, repair or removal of its system, such utility company, authority or, other entity shall remove from the WSPZ any prohibited material disturbed by the work and replace with approved materials. Prohibited materials shall be removed in such a manner as to avoid the release of such materials by wind, water, or other means onto adjacent lands or waters, or during transport of materials from the site.

The Board of Adjustment may exempt the application of this section in particular projects or parts of projects upon determination that an emergency exists and that an immediate exemption is required to protect the public health, safety or welfare.

4.07.06 Containment. Where a contractor is required to remove prohibited materials, they shall be removed immediately. The time for removal may be extended if pre-approved by the County Engineer for projects located in rights-of-way or public easements, or the Plans Review Engineer for construction work or other improvement to real property, consistent with the purpose and intent of this section. Specifically, with approval of the County Engineer or the Plans Review Engineer, as applicable, prohibited materials may

remain on-site for no more than 48 hours provided the prohibited materials are contained in such a way as to preclude the transfer of such materials, by wind, water, or other means within the parcel or onto adjacent parcels or waters. The County Engineer shall promulgate approved methods of containing and transporting prohibited materials required to be removed.

Prohibited materials not required to be removed immediately shall be contained on-site through the use of such reliable methods as are approved or prescribed by the County Engineer, including the employment of silt fencing, covering or other pre-approved means.

4.07.07 Approval of Material Any project within, or the use of; a roadway right-of-way or public easement involving land disturbance, filling, paving, road surfacing, reconstruction, redevelopment, improvement, landscaping, placement of sand or dune building in the WSPZ shall require approval of the sand material supply or source by the County Engineer prior to finalizing design, applying for a permit or commencement of site work. A request shall be made to the County Engineer for a right of way agreement.

All construction projects involving land disturbance, filling, reconstruction, redevelopment, improvement, landscaping, or placement of sand in the WSPZ shall require either: a) the supplier of the material, or b) an individual to obtain approval of the sand material source by the Plans Review Engineer prior to finalizing design, applying for a permit or commencement of site work. In all situations, a request shall be made to the Plans Review Engineer at the time application is made for a Development Order.

Approval of the subject material is required prior to the material being delivered to the site. Recommendations for use and retroactive approval will not be considered when there has been a violation of the white sand protection restrictions.

When requesting approval of material, the applicant, supplier, or entity requesting approval of a sand source shall provide the following:

1. Geologic description of the sample, including color standard to the Unified Soil Classification System and Munsell Color Charts.
2. Sample of sand material;
3. Schematic site design indicating area of placement of material.
4. A signed affidavit, furnished by the county, attesting to the receipt of a copy of this provision and agreeing to comply with these provisions.

The County Engineer or Plans Review Engineer, or their designee, as applicable, shall consider characteristics of the site and its location including: sand grain size, topography and vegetation to determine suitability of the sand sample.

It shall be the responsibility of the sand supplier to provide assurance that their product meets the specifications of this Code. Rejected material shall be removed at the owner's expense.

The County Engineer or the Plans Review Engineer or their designee as applicable may conduct a visual inspection or require sample analysis of each load of sand if necessary to ensure the integrity of the material.

The County Engineer or the Plans Review Engineer or their designee, as applicable, shall approve or disapprove any application for material placement.

4.07.08 Exemptions. Prohibited materials may be used under concrete or asphalt roads if exempted from these requirements, provided that the material is protected from wind or water transport during the construction process, is capped with either asphalt or concrete, is approved by the County Engineer or the

Plans Review Engineer or their designee, as applicable, and is recommended to and approved by the Board of County Commissioners.

Beach and dune restoration projects conducted by Walton County are exempt from this ordinance as they serve the public interest by providing protection to public and private lands, infrastructure, natural areas and the economy of Walton County. These projects shall be approved by the Board of County Commissioners before a project may commence.

Remedial work after a storm as defined in Chapter 4.07.03 and placement of approved material may be approved by the county engineer or the plans review engineer, or their designee, as applicable. Such approved material shall be sand that is similar to the pre-storm beach sand in both coloration and grain size and be free of debris, rocks, clay, or other foreign matter.

4.07.09 Violations. Violations of this section shall be punishable as provided in Section 1-6 of the Code of Ordinances of Walton County. Additionally, the Code Enforcement Division and the Building Official are authorized to issue a stop work order (after inspection by the appropriate county staff) when it is alleged that a violation exists.

When the County Engineer or the Plans Review Engineer or their designee, as applicable, recommends approval of prohibited materials and the Board of County Commissioners approves its use for road construction or site work, AND the use of prohibited material results in discoloring the white sand beaches, the owner or his representative shall be considered in violation of this section.

After the discoloring material found to be in violation is removed as required by this section, the owner or his representative shall immediately restore the affected areas to their original condition in both topography and color.

After restoration of the affected area, the County Engineer or the Plans Review Engineer or their designee, as applicable, shall inspect for compliance.

Section 2. Repeal

Any section of the Walton County Land Development Code and the Code of Ordinances that overlaps, contradicts, repeats, or is in conflict with these provisions is hereby repealed. This provision supersedes any section of this Land Development Code and the Code of Ordinances pertaining to the WSPZ.

Section 3. Severability

Should any word, phrase, sentence, or section of this ordinance be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then such word, phrase, sentence, or section shall be severed from this ordinance, and the remainder of the ordinance shall be in full force and effect.

Section 3. Effective Date

This ordinance shall take effect as provided by law.

Duly enacted by the Board of County Commissioners of Walton County, Florida, at a regular meeting on the 28th day of June, 2005.

BOARD OF COUNTY COMMISSIONERS
WALTON COUNTY, FLORIDA

Attest:

for *Dori Corde*
Martha Ingle
Clerk of Court

By: *Kenneth Pridgen*
Kenneth Pridgen, Chair