

**AN ORDINANCE AMENDING ORDINANCE 09-04 AN ORDINANCE AMENDING THE
TOWN CODE OF THE TOWN OF DUCK, NORTH CAROLINA CREATING A BEACH AND
DUNE MANAGEMENT ORDINANCE**

Ordinance No. 23-06

WHEREAS, pursuant to North Carolina General Statute §160A-174 a town may by ordinance define, prohibit, regulate or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town; and

WHEREAS, pursuant to North Carolina General Statutes the Town may determine that certain regulations are necessary to restrict driving on the beach in the Town of Duck so as to protect all beach users and the natural environment; and

WHEREAS, the Town Council of the Town of Duck adopted Ordinance #09-04 on April 8, 2009 and created a Beach and Dune Management Ordinance, Section 94.06 of which regulates beach driving in the Town of Duck.

NOW, THEREFORE, BE IT RESOLVED BY the Town Council for the Town of Duck, North Carolina as follows:

PART I. The aforementioned section, 94.06 Beach Driving, of the Town of Duck Code of Ordinances, shall be replaced, in its entirety, with the following:

§ 94.06 BEACH DRIVING REGULATIONS.

A. *General regulations.*

- 1) Except as hereinafter provided, it shall be unlawful to operate any vehicle on the beaches of the town.
- 2) "Eligible vehicles" mean those vehicles that are properly registered and licensed having a four-wheel drive and which shall have passed inspection by the Department of Motor Vehicles of the state or by the equivalent department or agency of the state in which such vehicle is licensed, if applicable. Modified utility vehicles ("MUTV") as described in N.C.G.S. 20-4.01(27) shall not be considered an "eligible vehicle" regardless of whether the MUTV is registered or licensed in any state.
- 3) Eligible vehicles may be operated on the beaches of the Town between 12:01 a.m. on December 1st until 11:59 p.m. on March 15th of each and every year, subject to the regulations and rules of operation contained in this chapter.

B. *Rules of operation.* When permitted by division (A)(3) above, eligible vehicles shall be operated on the beaches of the Town in accordance with the following rules:

- 1) No vehicle shall be operated on the beach at a speed in excess of 15 mph;
- 2) Eligible vehicles shall be operated on the beach only during the period set out in division (A)(3) above;

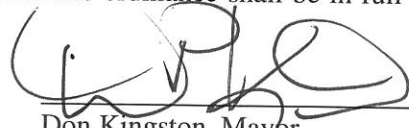
- 3) No vehicle shall be operated west of the toe of slope of the dune except in going to and from the beach area at authorized vehicular beach access points. However, nothing contained herein shall be construed to permit driving on the barrier dunes or driving on private property without the express permission of the owner, even though the toe of slope may be located west of the eastern boundary line of the private property;
- 4) Vehicles going to and from the beach area shall use as an entrance and exit only the vehicular beach access points designated by the Town;
- 5) Vehicles may be operated on the beach only from one-half hour prior to sunrise to one-half hour following sunset daily;
- 6) Pedestrians, swimmers, and bathers shall have the right-of-way over all vehicles being operated on the beach;
- 7) Any person who drives any vehicle upon the beach area carelessly and heedlessly in willful or wanton disregard of the rights or safety of others or who drives any vehicle upon the beach without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property shall be guilty of reckless driving;
- 8) Any person who is under the influence of intoxicating liquor or other drug or who has a blood alcohol level of 0.08% or more by weight, who drives on the beach area or going to and from the beach, shall be guilty of driving while under the influence of intoxicating liquor or other drug;
- 9) Any operator of any vehicle on the beach area or going to and from the beach must have a current and valid motor vehicle operator's license issued by the state of his or her residence.

A. *Exceptions.*

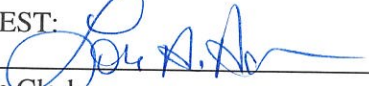
- 1) The provisions of this chapter shall not apply to municipal employees, municipal vehicles, or emergency vehicles or the drivers thereof, which may be required to enter upon the beach in the performance of their duties nor shall this division apply to a governmental agency, its employees, agents, contractors, and subcontractors and their vehicles when engaged in beach restoration or protection work or scientific research.
- 2) The date and time limitation provided in division (A)(3) above shall not apply to commercial fishermen holding a valid state commercial fishermen's license when engaged in commercial fishing activities.
- 3) The Town Manager shall have the authority to close any portion of the beach or the entire beach at the times and places where extensive beach erosion occurs. This authority may be exercised by the Town Manager when, as a result of inspections by the Town Manager or the Town employees subject to the Town Manager's authority, it is determined that the width of the beach between the toe of the slope of the dune and the area affected by ocean wash and waves is such that driving would either be dangerous or increase the effects of erosion, or the beach is not sufficiently wide or stable to support vehicular traffic.
- 4) At any time that the ocean wave wash is less than 40 feet eastward of the toe of the slope, that portion of the beach shall be closed. The closure area shall extend to the next beach access point in each direction. Any person operating a vehicle on the beach in a closed area shall be subject to the penalties provided in this chapter.
- 5) The provisions of this section shall not apply to persons engaged in research, conservation, or extension activities as authorized by the Town Manager.

Penalty, see § 94.99

PART II. This replaces any and all prior iterations of same and this ordinance shall be in full force and effect from and after the 1st day of May, 2023.



Don Kingston, Mayor

ATTEST: 

Town Clerk

