

§ 94.05 BEACH AND DUNE PROTECTION.

(A) The following activities shall be considered unlawful within the dune system:

- (1) Walking or traversing on the dunes outside of an improved or unimproved dune walkover access as defined in § 94.04;
- (2) Utilizing an improved dune walkover structure that has been damaged and officially posted by the town's Building Inspector as an unsafe structure;
- (3) Removing, damaging, or destroying healthy, non-invasive dune plant species including, but not limited to, Sea Oats (*Uniola paniculata*), Bitter Panicum (*Panicum amarum*), Seashore Elder (*Iva imbricata*), and American Beachgrass (*Ammophila breviligulata*);
- (4) Installation of vegetation inconsistent with sand dune systems, such as lawn grasses or sod, or herbaceous varieties that are not commonly known as "salt-tolerant" dune varieties or that may be determined to be "invasive exotic species";
- (5) Degrading, disturbing, or compromising the integrity of the dune structure. These prohibited activities include, but shall not be limited to:
 - (a) Digging, shelling, mining, or mechanical alteration of the dune topography;
 - (b) Playing, sliding, climbing, or rappelling on the frontal or primary dune or the dune escarpment; and
 - (c) Discharging water into the dune where it will cause significant scouring or erosion or otherwise affect the integrity of the dune.
- (6) Development activities without a valid building permit, Health Department approval, or CAMA authorization;
- (7) Storing objects or construction materials; and
- (8) Littering.

(B) The following activities shall be considered unlawful on the beach, as defined in §94.04:

- (1) Erection of a tent, cabana, or sunshade that meets any of the following conditions as determined by Ocean Rescue Personnel:
 - (a) When, due to beach width, tide levels, crowd conditions, or other factors, placement of tents or similar devices will obstruct the passage of emergency or ocean rescue vehicles or the line of sight from lifeguard stands or other surveillance areas.
 1. In such instances, areas may be designated by Ocean Rescue Personnel where the use of tents or similar devices shall be temporarily prohibited.
 2. At any time when tents or similar devices are prohibited in designated areas, an identifier shall be placed at each end of the subject area so as to be readily visible to all person within the area.
 3. To allow for emergency vehicle access, tents or similar devices shall not be placed within 15 feet of the base of the seaward toe of the primary dune.
 - (b) Tents, cabanas, and sunshades shall not be greater than 12 feet by 12 feet in area or higher than 9 feet above the surface of the beach when installed.
 - (c) Tents, cabanas, and sunshades shall not be tied together and shall be placed no closer than 10 feet apart.
- (2) Leaving unattended personal articles on the beach between the hours of 5:00 p.m. and 8:00 a.m. These items may include, but shall not be limited to, volleyball, badminton and tennis nets, poles, tents, chairs, cabanas, sunshades, horseshoe stakes, croquet courses, umbrellas or any other personal property items. Unattended items left on the beach between these hours shall be considered litter and may be subject to removal and disposal.
- (3) Beach fires as prohibited in §91.21.
- (4) Substantially altering the contour or shape of the flat beach area by excessive digging or mounding of sand whereby, in the opinion of Public Safety Personnel, such alteration presents a dangerous condition. Persons responsible for altering the contour or shape of the beach to any extent shall restore the beach to its original condition prior to leaving the area unattended for any period of time.
- (5) Littering.
- (6) Violations of § 90.06 related to mandatory removal of dog feces on the ocean beach.

(C) Beach Vitex (*Vitex rotundifolia*). The plant known as Beach Vitex (*Vitex rotundifolia*) is hereby found and declared to be a public nuisance due to the significant negative impacts this plant will have upon the beaches and dune system, nesting sea turtles, and native vegetation such as Sea Oats, Bitter Panicum, Seashore Elder, and American Beachgrass. It shall be unlawful for any person to plant or cause to be planted Beach Vitex (*Vitex rotundifolia*) on any property located within the corporate limits of the town.

(D) Exemptions: The town hereby encourages responsible dune management activities including proper construction and maintenance of improved dune walkover structures, the use of shared and/or community beach accesses, the proper installation and maintenance of sand fencing, and planting of native, salt-tolerant dune vegetation. Therefore, this section shall not apply to the following activities:

(1) Development activities authorized or permitted by the town, the Dare County Department of Environmental Health, or CAMA;

(2) Dune or property maintenance activities including planting or fertilization of vegetation, sand fence installation, minor dune repairs, and removal of litter or debris;

(3) Activities within the developed portion of the dune system;

(4) Federal, state, and local officials engaged in official regulatory activities; and

(5) Persons engaged in research, conservation, or extension activities as authorized by the Town Manager.

(Ord. 09-04, passed 4-8-2009; Am. Ord. 11-02, passed 3-2-2011; Am. Ord. 13-03, passed 4-3-2013) Penalty, see §4.99

§ 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) Vehicles may be operated on the beaches of the town between 12:01 a.m. on October 1 until 11:59 p.m. on April 30 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)(2) above, 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 20 mph;

(2) Vehicles shall be operated on the beach only during the period set out in division (A)(2) 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; and

(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.

(C) 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)(2) 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.

(Ord. 09-04, passed 4-8-2009) Penalty, see §94.99