Ordinance 2019-01

AN ORDINANCE OF THE CITY OF BEACH CITY, TEXAS, PROHIBITING THE DUMPING, PLACEMENT OR DISPOSITION OF MATERIALS WHICH HAVE BEEN REMOVED FROM THE "AREA OF CONCERN" OF THE SAN JACINTO WASTE PIT SITE AS IDENTIFIED IN THE OCTOBER 21, 2009 PUBLIC ANNOUNCEMENT FROM EPA, TCEQ AND ARMY CORPS OF ENGINEERS PERMIT PRECONDITIONS AND CONDITIONS PROCESS, AND IMPOSING A CRIMINAL PENALTY OF $2,000.00 PER DAY FOR EACH DAY SUCH VIOLATION CONTINUES OF THIS ORDINANCE

Whereas the deposition of dredge materials within the city limits of the City of Beach City, Texas originating from within the "Area of Concern" of the San Jacinto Waste Pit Superfund site, as identified in the October 21, 2009 Public Announcement from EPA, TCEQ and Army Corps of Engineers Permit Preconditions and Conditions Process presents an unacceptable risk to human health and the environment and;

Whereas the unacceptable risks include, but are not limited to:

1) Potential toxicity of the dredge materials;
2) Potential migration of contaminants i.e. dioxins, heavy metals, semi-volatile and volatile organic chemicals to groundwater which supplies drinking water to all Beach City residences;
3) Potential migration of contaminants to surface waters including Galveston Bay;
4) Potential migration of contaminants to adjoining and downstream properties, and;

Whereas the deposition of dredge materials within the city limits of the City of Beach City, Texas originating from within the "Area of Concern" of the San Jacinto Waste Pit Superfund site will negatively impact surrounding property values, and;

Whereas the deposition of dredge materials within the city limits of the City of Beach City, Texas originating from within the "Area of Concern" of the San Jacinto Waste Pit Superfund site presents an unacceptable negative impact on the naturally occurring drainage patterns and may cause local flooding on adjacent and downstream properties,

NOW THEREFORE, IT IS ORDERED by the City of Beach City, Texas, that the deposition of dredge materials within the city limits of the City of Beach City, Texas originating from within the "Area of Concern" of the San Jacinto Waste Pit Superfund site is expressly prohibited and;

SECTION 1: No person or entity shall dispose, place or dump any dredge materials within the city limits of the City of Beach, Texas, originating from the "Area of Concern" of the San Jacinto Waste Pit Superfund site.

SECTION 2: Any person or entity who violates this ordinance is subject to a criminal fine of up to $2,000 per day per violation.

SECTION 3: If any provision, section, subsection, sentence, clause, or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid (for any reason unenforceable), the validity of the remaining portions of this ordinance or the application to such other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Beach City, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reason of unconstitutionality or invalidity of any other portion or provision.

SECTION 4. The city attorney is hereby authorized to file suit to enjoin the violation of this article.

SECTION 5: All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

SECTION 6: This ordinance shall be published and become effective in accordance with state law.

READ, CONSIDERED, PASSED, AND APPROVED ON FIRST READING by the City Council at a regular meeting the 22nd day of January, 2019, at which a quorum was present.

PASSED, APPROVED, and ADOPTED on the 22nd day of January, 2019.

JACKEY LASATER, MAYOR

Attested

Evonne Donnelly, City Secretary

Approved as to Form:

Daniel R. Jackson, City Attorney