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AN ORDINANCE AMENDING WALTON CODE OF ORDINANCES SECTION 22-60; FINDING THAT THE COUNTY HAS THE POWER TO REGULATE THE PROVISION OF GOODS AND SERVICES BY PRIVATE VENDORS MAKING USE OF THE PUBLIC INTEREST ON THE BEACH; AMENDING THE RULES AND REGULATIONS RELATING TO PRIVATE VENDORS ON THE BEACH.

WHEREAS, the Walton County Board of County Commissioners finds and declares that due to the overcrowding of the beaches of the County certain changes to Section 22-60 of the Walton County Code of Ordinances are necessary to ensure the enjoyment of the beach by all residents and visitors; and

WHEREAS, the necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the health, safety, welfare and quality of life of the people of this county;

NOW THEREFORE, be it ordained by the Board of County Commissioners of Walton County, Florida, that Section 22-60 of the Walton County Code of Ordinances be amended as follows:

Sec. 22-60. Beach vendors.

(a) *Policy.* The county finds that the use and enjoyment of the beach by the public is enhanced by the provision of certain goods and services so long as individual peace and quiet is not unreasonably disturbed; that a comprehensive and effective program of beach management for the enjoyment of the beach by the public requires flexibility in the number, location, and type of beach vendors; and that as the trustee of the public interest in the beach, the county has the power to regulate the provision of goods and services by private vendors making use of the public interest on the beach. No beach vendor activities that require permanent installation of electricity or running water will be permitted as a vending operation by the county unless properly permitted with DEP and the building department. Food and beverage vending operations are not permitted on the sandy beaches.

(b) *Permit required.*

(1) A vendor permit shall be required for the sale, rental, or solicitation of any merchandise, services, goods, or property of any kind or character. A specific place permit shall grant to the vendor the right to sell or rent specified goods or services on the specific beach from a fixed beach location. A vendor with multiple locations will need a permit for

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each specific location. Such permit shall provide the exclusive authority to sell or rent goods or services within a defined area or zone of operation on the specific beach. A vendor that is providing goods or services for use on the beach that does not have a defined area of the beach may only deliver the goods or services to the beach, but may not vend (solicit) from the beach. Delivery vendors must either remove their goods from the beach each day or store them at the toe of the dune only if the customer is using the items again the following day.

(2) A permit will be issued upon completion of required application and submission of required documents and payments. Applications shall be made to the county.

(c) *Fee.* The fee for beach vendor permits shall be set by resolution of the board and changed as necessary. Each type of activity shall require a separate permit.

(d) *Operations and maintenance generally.*

(1) Each vendor shall continuously have on file with the county a statement fully disclosing those natural persons owning, leasing, or having an ownership or leasehold interest in the vending operation, and those natural persons who shall be principally responsible for its operation or who in any manner assist with the operation of the vending operation.

(2) The vendor must have and maintain a telephone or marine radio at its land-based operations center.

(3) All equipment shall be maintained so as to promote an attractive appearance and to ensure safety of operation and quality of services. Beach chairs and umbrellas must be placed at a reasonable set back from the water's edge, and, on public beaches, must allow for a 10' clear corridor from lifeguard towers to the water, and must allow for private set up space and access isles for access to the water.

(4) All activities related to the business operation of each vendor must be confined within its assigned and designated area. During the sea turtle nesting season, vendors shall be allowed access to the beach between 7:30 a.m., or after the morning sea turtle nesting survey has been completed, or whichever is earlier, and One hour after sunset.

(5) Each vendor shall have a trash receptacle on the site, and shall, at the end of each business day, be required to ensure that all trash resulting from operations within a distance of 100 feet measured in any direction is removed from the beach.

(6) Temporary beach storage boxes shall be allowed on the beach by specific place permitted vendors, but must be placed as far landward as possible but seaward of the vegetation lines. Beach storage boxes must be able to be removed entirely from the beach in the event of a declared emergency (storm) and can be no larger than four feet by four feet by eight feet (any exceptions must be contained in the vending permit). Multiple storage boxes at a vending location shall be placed at least ten feet apart and positioned so they are perpendicular to the waters edge. Each vendor shall ensure that all equipment is removed from the beach and stored after business hours each day. Failure to do so may result in fines or the revocation of the permit. Equipment that is not stored in a storage box, must be neatly stacked at the toe of the dune, perpendicular to the shoreline. Stacks must be at least ten feet apart. For vendors that vend on beach of 1,000 linear feet or greater, owned by the same owner or controlled by the same

owner/association, are allowed up to one temporary beach hut per each 500 linear feet (i.e. 1,200 feet = maximum of two beach huts). The gross square footage of the footprint of huts, including decks, must be no more than 144 square feet. Huts must be able to be removed from the beach for storms and cannot have permanent utilities (i.e. must be hose/cord connected).

(7) Beach vendors shall be required to display the beach vendor permit number on each temporary storage box.

(8) No vending on private property shall occur without written annual authorization from the property owner. No vending on public beaches shall occur without written annual authorization from the county and any private property owner whose southern property line is contiguous to the proposed vending location.

(9) Vendor driving on the beach. Vendor permits that specifically permit driving on the beach by off road, light weight vehicles must adhere to the following: During the sea turtle nesting season (May 1 through October 31, or the last marked nest has hatched, whichever is later), private vehicles involved in vending operations or special events permitted by the county shall be allowed access to the beach between 7:30 a.m. or after the morning sea turtle nesting survey has been completed, and sunset, as specified on their permit. Outside of the sea turtle nesting season, vehicular beach access shall be restricted to the period between sunrise and sunset, as specified on their permit. Vehicles shall not encroach on marked sea turtle nests or posted shorebird nesting sites, and under no circumstances shall vending equipment and/or supplies be placed within a nest barrier. Vendors shall not be allowed to drive through state parks. See section 22-57(q) for restrictions on vendor driving.

(10) Beach vendor's operations are limited to no more than 50% of the public beach frontage at any public beach access. The frontage shall be designated by the Walton County Tourist Development Council prior to May 1st of each year.

(e) *Operations and maintenance for water-based activity operations.* In addition to the requirements in subsection (d), vendors of water-based activity operations shall be subject to the following:

(1) The vendor must have an operations center located at a land-based location with direct access to the beach in the immediate area where the vending services are being provided for public use.

(2) The vendor must provide "access corridors" for jet propelled boats or vessels entering into the Gulf of Mexico. Such "access corridors" shall be designated by the board of county commissioners or its designated representatives and shall be posted as such. The "access corridors" shall not exceed 50 feet in width leading to the shore for pick-up or drop-off, and shall be marked by at least two orange or red buoys not less than 60 inches in circumference and anchored 150 feet from the shoreline, two orange or red buoys not less than 60 inches in circumference and anchored 300 feet from the shoreline, and two orange or red buoys not less than 60 inches in circumference and anchored 750 feet from the shoreline, and two orange or red cones or signs not less than 28 inches high erected at the waterline.

(3) The vendor must have a motorized chase boat or personalized watercraft in good running condition in the water. The chase boat must meet all U.S. Coast Guard safety requirements. It must remain at the vendor's base of operation during all hours of vendor's operations to be available to respond to emergencies. The chase boat shall be equipped with operational marine radio or cellular phone.

(4) All vendors involving water sports and their designated employees shall be required to obtain a CPR certification or water safety certification recognized by the American Red Cross. Proof of certification must be provided with the license application and upon request.

(5) In the event that a vendor must leave any items on the beach at night, they must be moved to the toe of the dune and there must be a minimum of ten feet of space between each item for turtle passage.

(6) There shall be no storage of hazardous materials (such as fuel) on the beach.

(f) *Operations and maintenance for parasail operations.* In addition to the requirements in subsections (d) and (e), vendors of parasail operations shall be subject to the following.

(1) Each towboat rented, leased or hired within the county to pull a parasail, kite or the like, shall be registered with the county. The applicant for registration shall provide:

a. The name, residence, and mailing address of the owner;

b. The name, location, and mailing address of the parasail amusement offering the device;

c. A description of the tow boat and device to be pulled, including a copy of the certificate of title where applicable;

d. Evidence of Florida registration;

e. A certificate of the insurance required by subsection (h) issued in favor of the county and stating that the county shall receive 30 days written notice in advance of cancellation;

f. Current United States Coast Guard Certification that the parasail operator is a registered boat captain;

g. A letter of approval or a contract from the abutting property owner or condominium allowing the operator to establish a pull-in site behind an individual's or condominium association's property or condominium;

h. Each such towboat shall be the subject of a single application and each application shall be accompanied by a registration fee defined in section 22-61(c).

(2) The county shall assign a permit decal, including a number or letter and a colored field, for each towboat and personal watercraft that is rented.

(3) Each registration shall expire on February 1.

(4) It shall be unlawful for any person to conduct or assist in conducting, in whole or in part within the county, a parasail, kite, or similar ride on or above the waters of the Gulf of Mexico or Choctawhatchee Bay in exchange for a fee or value, or solicit the same within the county, unless:

a. The tow boat and parasail, kite or the like used in such ride are insured and registered, and each person and business offering or assisting such ride is insured, as required under this division.

b. There is a minimum of 2,000 feet between the land-based operations of vendors.

c. Permanent restroom facilities are provided.

d. The tow boat maintains an idle speed when within 750 feet (250 yards) of the shore.

e. The tow boat nor a parasailer does not come within 750 feet (250 yards) of the shoreline during actual operation (an exception exists when the tow boat is taking customers to and from the operational area to the shoreline).

f. There is provided for each rental location a water channel or access corridor perpendicular to the shoreline, not less than ten feet in width nor wider than 50 feet leading to the shore for pick-up or drop-off, and marked by at least two orange or red buoys not less than 60 inches in circumference and anchored 150 feet from the shoreline, two orange or red buoys not less than 60 inches in circumference and anchored 300 feet from the shoreline, and two orange or red buoys not less than 60 inches in circumference and anchored 750 feet from the shoreline, and two orange or red cones or signs not less than 28 inches high erected at the waterline.

g. There is a minimum of 2,000 feet between airborne parasailers.

h. A ground crew is provided that has both a cellular phone for emergencies and a shore-to-towboat radio. A chase boat and/or jet ski shall also be at the operational site to assist the towboat in the event of an emergency.

i. A current registration decal issued under this section is permanently affixed to the towboat.

j. Parasail operation shall only be allowed from the western edge of Topsail Hill State Preserve to the Okaloosa-Walton County line.

k. Vessel launch system. Every towboat used for parasail operations shall have a vessel launch system with an operable winch attached.

l. Landing and take-off zones.

    1. A landing and take-off zone measuring 30 feet wide and 50 feet long is established offshore. This area shall be clearly marked on the shore indicating the landing and take-off zone in the Gulf of Mexico.

    2. Except in cases of emergency, the landing or take-off of such ride is made from and to such zone established (beach launches and recoveries of airborne parasailers are strictly prohibited).

    3. No person shall knowingly swim within any channel properly marked pursuant to subsection (2)f.

    4. No person shall knowingly remain within any properly sized and clearly marked landing and take-off zone established pursuant to this subsection.

5. Parasail towboats shall be prohibited from operation in any coastal dune lake of South Walton County.

m. In the event there is an accident involving a parasail amusement, the permitted vendor shall immediately notify the county in accordance with 46 CFR 4.05-1, Notice of Marine Casualty.

(g) *Operations and maintenance of personal watercraft.* In addition to the requirements in subsections (d) and (e), vendors of personal watercraft rentals shall be subject to the following.

(1) Each personal watercraft rented, leased, or hired shall be registered with the county. The application for registration shall include:

a. The name, residence, and mailing address of the owner;

b. The name, location and mailing address of the personal watercraft vendor offering the device;

c. Evidence of Florida registration;

d. A certificate of the insurance required by subsection (h) issued in favor of the county and stating that the county shall receive 30 days written notice in advance of cancellation;

e. A letter of approval or a contract from the abutting property owner or condominium allowing the operator to establish a pull-in site behind an individual's or condominium association's property or condominium; and

f. Each personal watercraft shall be the subject of a single application and each application shall be accompanied by a registration fee defined in section 22-60(c).

(2) The county shall assign a permit decal, including a number or letter and a colored field for each personal watercraft that is rented.

(3) Each registration shall expire on February 1.

(4) Personal watercraft vendors shall be subject to the restriction in section 22-56

(h) *Insurance.*

(1) It shall be unlawful for any vendor to operate unless the vendor shall have first procured and filed with the county a liability insurance policy, or a duly executed certificate of insurance, the terms and conditions of which shall provide for the protection of all persons suffering injury, loss, or damage to the person, or to property, by reason of the operation of any beach concession.

(2) The insurance policy or certificate of insurance shall provide comprehensive general liability coverage in the amount of $500,000.00 and shall be executed by an insurance company authorized to do business in the State of Florida. Additionally, each person and business renting such devices, or offering or assisting such rides, within the county shall be insured against general public liability in an amount not less than $500,000.00 combined single limit per occurrence, and against property damage in an amount not less than $50,000.00 per occurrence.

a. The insurance policy or certificate of insurance shall contain a provision whereby every company executing the same shall obligate itself to notify the county in writing at least 30 days before any alteration, modification, or cancellation of such policy. Walton County Board of County Commissioners shall be listed as certificate holder and additionally insured on the insurance policy.

b. No authorization shall be issued to operate any concession unless and until such liability insurance policy or certificate of insurance is filed with the county, and failure of the vendor to procure a liability insurance policy as described in this section and keep such policy on file with the county at all times shall be grounds for suspension of the authorization until such time as insurance is obtained.

(i) *Acknowledgment* All vendors shall sign an acknowledgment that he or she has read this section and understands its terms. In addition to those penalties in section 22-62, the vendor permit may be revoked for violation of this article.

(j) *Flag system.* Beach vendors will be required to provide a sign or placard at their vending location, describing the established county colored flag system.

This Ordinance shall become effective immediately upon passage by the Walton County Board of County Commissioners.

PASSED AND DULY ADOPTED in regular session, by the Board of County Commissioners of Walton County, Florida, this 14th day of April, 2015.

BOARD OF COUNTY COMMISSIONERS

OF WALTON COUNTY, FLORIDA

Attest:

Lina Willis

for Alex Alford, Clerk of Circuit Court

and County Comptroller

W.N. "Bill" Chapman, Acting Chairman

COUNTY COMMISSIONERS SEAL WALTON COUNTY, FLORIDA