

ORDINANCE NO. 1301

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING AND READOPTING CHAPTER 7 OF THE CITY CODE RELATING TO BEACHES, BOATS AND WATER SAFETY; SUBSTANTIALLY REVISING THE PROVISIONS REGULATING BEACH SERVICES AND OWNER OPERATORS, THEIR OPERATIONS AND THEIR OWNER, EMPLOYEES AND SUB-CONTRACTORS; CREATING CIVIL PENALTIES FOR VARIOUS OFFENCES AND RELATED PROCEDURES; RECONFIGURING THE WATER SAFETY BOARD AND ITS DUTIES; SUBSTANTIALLY REVISING PENALTIES AND ENFORCEMENT MECHANISMS FOR VIOLATIONS OF THE CHAPTER; ADDING REGULATION OF WATER AMUSEMENT PARKS AND HYDRO-FLYERS; AMENDING AND CREATING DEFINITIONS; PROHIBITING ACTING AS A LIFEGUARD WITHOUT A CITY PERMIT; PROHIBITING SHOVELS AND DIGGING DEEP HOLES ON THE SANDY GULF BEACH; INCORPORATING THE PROHIBITION OF ANIMALS ON THE BEACH INTO CHAPTER 7 AND REVISING THE PROHIBITION OF ANIMALS IN PUBLIC PARKS; REQUIRING WORK VEHICLE PERMITS TO BE DISPLAYED ON THE VEHICLES; AUTHORIZING CODIFICATION; REPEALING ORDINANCES IN CONFLICT; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE

BE IT HEREBY ENACTED BY THE PEOPLE OF THE CITY OF PANAMA CITY BEACH, FLORIDA:

SECTION 1. From and after the effective date of this ordinance, Chapter 7 of the Panama City Beach Code of Ordinances is amended to read as follows (deleted text ~~stricken~~, new text **bold** and underlined):

Chapter 7 BEACHES, BOATS AND WATER SAFETY*

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Sec. 7-2. Possession, use of glass containers on beach prohibited.

- Sec. 7-3. Disclaimer of liability.
- Sec. 7-4. Definitions.
- Sec. 7-5. Sifting sand at the conclusion of construction or demolition of Gulf front structure.
- Sec. 7-6. ~~Administrative penalties cumulative~~Reserved.
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- Sec. 7-8. Leave No Trace and warning signs in rental rooms.
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I. IN GENERAL

Sec. 7-1. Diving from docks and piers prohibited.

(a) The diving, jumping or leaping into the waters of the Gulf of Mexico from any dock or pier is hereby prohibited and made unlawful.

(b) A violation of this Section shall be punishable as a Class 2 Infraction as provided in Section 7-502.

Sec. 7-2. Possession, use of glass containers on beach prohibited.

(a) No person shall possess or utilize any glass container in or on any public park, pier or

recreation area, or upon the sandy beach of the Gulf of Mexico, within the City limits. __

(b) A violation of this Section shall be punishable as a Class 3 Infraction as provided in Section 7-503.

Sec. 7-3. Disclaimer of liability.

- (a) Neither the City nor any of its agents, officers or employees, shall be liable for any negligence, fault or wrongdoing of any person or business operating under the provisions of this entire chapter. The right of the City to enforce the provisions of this chapter shall not be construed as a duty, and the City shall not be responsible for failing to enforce any of the provisions of this chapter or for acting or failing to act upon any information obtained under this chapter.
- (b) The standards herein contained are minimum standards intended for the protection of the public generally under commonly prevailing circumstances.

Sec. 7-4. Definitions.

As used in this Chapter:

- (a) *Beach Amusement* shall mean the rental, lease or hire within the city of a Personal Watercraft (as defined herein), Hobie Cat, Sunfish, Prindle or similar sailboat, sailboard, surfboard, boogie-board, Kayak, Canoe or similar hand paddled boat, ~~or~~ watercycle or Water Amusement Park, Hydro-Flyer, or similar device, for use on or in the waters of the Gulf of Mexico, or the conduct or assistance in the conduct, in whole or in part within the city, of a ~~parasail, kite~~Parasail, Kite or ~~watersled~~Watersled ride on or above the waters of the Gulf of Mexico, or the landing, departure or operation of a Shuttle Craft, or access to a Water Amusement Park or any other Beach Amusement, in exchange for a fee or value, or the solicitation, sale or arrangement of any of the same.
- (b) *Beach Business* shall mean any commercial enterprise operated in or through a permanent structure exceeding two thousand (2,000) square feet located adjacent to the sandy Gulf beach.
- ~~(c)~~ Civil Citation shall mean a citation authorized by Section 7.6 and which may contribute to the revocation or suspension of a permit or certificate of compliance issued pursuant to this chapter.
- (d) *Beach Service* shall mean a person, firm or corporation primarily responsible for providing or offering Beach Commerce to the public at any one business or location, either personally, or directly through an agent or employee, or indirectly through an independent contractor, sub-contractor, sub-sub-contractor, et cetera, other than an Owner-Operator.
- (~~e~~) *Beach Commerce* shall mean the rental or sale, or the solicitation or offering for the immediate rental or sale, on or about the sandy Gulf beach of any of those goods and services listed in Section 7-81 herein, ~~and shall include within its meaning all or any~~ Beach ~~Amusements~~Amusement.

- (ef) *Control or Management of a Beach Service* shall mean, but not be limited to, any one or more of the following activities by a natural person on behalf or for the benefit of a Beach Service:
- (1) Negotiation or entry of a contract with a Beach Business, landowner or lessor for the provision or offering of Beach Commerce.
 - (2) Negotiation or entry of a sub-contract with a person or business to offer or provide Beach Commerce at a particular location under the authority of a separate contract with a third party Beach Business, landowner or lessor.
 - (3) Providing direction or management for the operation of a Beach Service.
 - (4) Selecting or discharging employees, agents or independent contractors to offer or provide Beach Commerce.
- (fg) *Control or Management of an Owner-Operator* shall mean, but not be limited to, any one or more of the following activities by a natural person on behalf or for the benefit of an Owner-Operator:
- (1) Negotiation or entry of a contract with a person or business, other than a Beach Service, to offer or provide Limited Beach Commerce at a particular location.
 - (2) Providing direction or management for the conduct of any Limited Beach Commerce, except through a Beach Service.
 - (3) Selecting or discharging employees, agents or independent contractors, other than a Beach Service, to offer or provide Limited Beach Commerce.
- (gh) *Exclusive Lifeguard* shall mean a Lifeguard who:
- (1) Holds a valid Gulf Service Lifeguard Permit, and
 - (2) Is not engaged in any business or activity except acting as a Lifeguard for Gulf waters, and
 - (3) Is in possession of the following, at a minimum:
 - (i) One rescue flotation device meeting specifications to be determined by the City aquatics department, and
 - (ii) One whistle or horn meeting specifications to be determined by the City aquatics department, and
 - (iii) One basic first aid kit approved by the City aquatics department, and
 - (iv) Equipment to protect against blood-borne pathogens consistent with OSHA requirements, and
 - (v) Mask and snorkel, and
 - (vi) Swim fins, and
 - (vii) Cell phone to activate local EMS; and

- (4) Is wearing an easily identifiable uniform denoting the wearer as a trained rescuer (e.g. "Lifeguard," "Water Safety" but not "Beach Patrol") and denoting the Lifeguard's employer.
- (hi) *Gulf Service* shall mean serving as a lifeguard for Gulf waters or beaches or their environs.
- (i(j)) Hydro-Flyer, sometimes called a hydro-board (foot-board) or hydro jet pack (back-pack), means any device intended or used to lift and support a human being on or above the surface of a body of water by a forced stream or streams of water and includes the Personal Watercraft used to generate the lift.
- (k) Hydro-Flyer Ride means the use of a Hydro-Flyer.
- (l) *Idle Speed* shall mean steerageway or that minimum speed necessary to steer the vessel.
- (jm) *Kayak and Canoe* shall mean a vessel powered by hand-held paddles and whose length at the waterline is at least 4.25 times its beam.
- (kn) *Kite-board* shall mean a surfboard or similar, often smaller, board upon which the rider stands and which is drawn through the water by a kite.
- (lo) Kite Ride or Parasail Ride means a ride in the air suspended under a kite or parasail or similar device towed by a tow-boat. A Kite Ride is similar to a parasail ride. Tow Boat.
- (mp) *Lifeguard* shall mean a person responsible for safety supervision of others in Gulf, pool, lake, pond or bay waters or beaches or their environs.
- (nq) *Lifeguard Permit* shall mean the permit issued pursuant to section 7-17.
- (er) *Limited Beach Commerce* shall mean the rental or sale, or the solicitation or offering for the immediate rental or sale, on or about the sandy Gulf beach of umbrellas, cabanas, chairs, and sun protective oils or creams, but not floats, ~~surfboards~~ or ~~beach amusements~~ Beach Amusements.
- (ps) *Owner-Operator* shall mean a person, firm or corporation operating a Beach Business which person, firm or corporation is also primarily responsible for providing or offering Limited Beach Commerce to the public behind or at that same Beach Business either personally or directly through an agent or employee, or indirectly through an independent contractor, subcontractor, sub-subcontractor, et cetera.
- (qt) *Pool Service* shall mean serving as a lifeguard for a pool, lake, pond or bay or their environs.
- (fu) *Personal Watercraft* shall mean and include without limitation, a jetskijet-ski, waverunner, personal watercraft as defined in Florida Statutes § 327.02(33)(1991), or other motorized vessel propelled or by an engine and designed to transport onethree (3) or moreless persons. Whenever used in the City of Panama City Beach Code, the term "Motor Driven Floating Device" shall mean Personal Watercraft as defined in this Section.

- (sv) *Sailboard* shall mean a surfboard or similar, often smaller, board upon which the rider stands and which is propelled through the water by a mast and sail mounted on the board.
- (tw) *Shuttle Craft* shall mean a ~~waverunner~~Personal Watercraft or ~~similar jet or other motorized~~, impeller/~~jet~~ driven ~~small~~-watercraft (no exposed propeller) designed to carry ~~no more than six (6)~~ passengers and used to transport customers between the beach and ~~a parasail tow boat or a watersled tow boat~~another Beach Amusement, or used to tow a watersled or other floating object for that purpose.
- ~~(u)~~(x) *Surfboard or Boogie-Board* shall mean a platform used in the sport of surfing or body-boarding, respectively; a surfboard being longer and more elongated than a Boogie-Board.
- ~~(y)~~ *Tow Boat* shall mean a motorized vessel used to tow a sled, float, kite, parasail or similar device as a part of a Beach Amusement.
- (z) *Tower* shall mean a lifeguard tower placed on the sandy beach seaward of the dune, building and vegetation line and at least six (6) feet in height measured vertically from ground level to the bottom of the seat.
- ~~(vaa)~~ *Water Amusement Park* means one or more typically inflated amusements such as a water slide, sea-saw, trampoline, gym, house or other amusement, anchored in the Gulf in sufficiently close proximity to each other to be operated as a coordinated business.
- ~~(bb)~~ *Watersled Ride* means a ride on the surface of the water in or on a sled or float or other device towed by a ~~tow boat~~Tow Boat.

Sec. 7-5. Sifting sand at the conclusion of construction or demolition of Gulf front structure.

No person shall construct, reconstruct, remodel, modify or demolish the exterior of any structure on any property located between the Gulf of Mexico and the southerly right-of-way of the closest improved public road, or cause any of the same to be done, without at the conclusion of such activity, sifting to a depth of twelve (12) inches with a one-inch (1") screen all sand or soil within twenty (20) feet of such activity and any place that materials, debris or equipment was stored during such activity, and disposing of all rubble and material so removed from the soil. In the event that the twenty-foot area described above extends into lands beyond the possession or control of such person, sifting the area across such boundary shall not be required. Failure to timely sift all areas required shall be an offense punishable as provided by Section 1-12 of this Code. Any lot or site not sifted as required by this law is declared a public nuisance which may be abated by the City pursuant to any of the remedies included or incorporated in Chapter 15 of this Code, including the right to place a first priority lien on the property for the cost thereof, or any other remedy provided by law.

Sec. 7-6. Reserved

~~Sec. 7-6. Administrative penalties cumulative.~~

~~All administrative penalties contained in this Chapter 7 are cumulative and shall be in addition to any other or criminal penalties that may be available generally for violation of this Chapter 7 and this Code of Ordinances.~~

Sec. 7-7. Flag warning and rip current signs in rental rooms.

In each rental unit rented by the day or week there shall be posted or placed in a plainly legible fashion, in a conspicuous place in each rental unit for each occupancy, a sign in form and substance approved by the City Manager:

- (1) Explaining the flag warning system; and
- (2) Explaining and warning swimmers of rip currents.

Sec. 7-8. Leave No Trace and warning signs in rental rooms.

In each rental unit rented by the day or week there shall be posted or placed in a plainly legible fashion, in a conspicuous place in each rental unit for each occupancy, a sign in form and substance approved by the City Manager:

- (1) Explaining the "Leave No Trace" ordinance prohibiting tents and personal property on the beach at night; and
- (2) Warning beachgoers that any unattended tents or property left on the beach at night shall be deemed abandoned and become the property of Bay County or the City of Panama City Beach, and may be removed and disposed of by the appropriate authority.

Sec. 7-9. Animals prohibited on beaches.

- (a) It shall be unlawful for any owner of an animal to cause or permit such animal into or upon the sand beach areas between the waters of the Gulf of Mexico and the Coastal Construction Line established by the State Department of Environmental Protection.
- (b) Violation of this Section shall be punishable as a Class 3 Infraction as provided in Section 7.503.
- (c) The city council may, by specific resolution, except one or more beaches or beach parks within the city from the operation of this section, allowing the presence of specified animals.
- (d) This section shall not apply to any dog trained to aid disabled or handicapped persons, when any such dog is actually being used to assist any such person.

Sec. 7-10. No Holes on Beach

- (a) No person shall possess on or about the sandy gulf beach a metal shovel of the type customarily sold in hardware stores (not a children's toy) unless part of a construction

project permitted under the Florida Building Code or similar law..

(b) No person shall dig a hole in the sandy gulf beach deeper than two (2) feet below surrounding grade unless part of a construction project permitted under the Florida Building Code or similar law.

(c) Violation of this Section shall be punishable as a Class 3 Infraction as provided in Section 7.503

Secs ~~7-110~~--7-15. Reserved.

ARTICLE II. LIFEGUARDS

Sec. 7-16. Registration and permit required.

(a) No person shall seek, secure or hold employment, or be self-employed or donate his services as a Lifeguard, who shall not have first registered with and secured and hold un-revoked a current Pool Service Lifeguard Permit or a Gulf Service Lifeguard Permit therefore, as appropriate, from the City (either a Lifeguard Permit).

(b) Violation of this section shall be punishable as a Class 2 Infraction pursuant to Section 7-502.

Sec. 7-17. Issuance of lifeguard permits by Police Department; fee; appeals.

- (a) Registrations shall be maintained and Lifeguard Permits issued by the Police Department which shall, before issuance, determine that the applicant for any such permit is identified and qualified as required by section 7-18.
- (b) A registration fee of fifteen dollars (\$15.00) shall be charged and paid by each applicant for such determination, registration and permit issuance.
- (c) Appeal from an adverse determination by the Police Department may be made to the Water Safety Board by written notice delivered to the City Manager, as secretary to the Board, within three (3) business days after such determination and specifying the grounds for appeal.
- (d) No application for a new permit shall be accepted within one (1) year after a final, adverse determination.

Sec. 7-18. Application and qualifications.

- (a) Applications for a Lifeguard Permit shall include such information identifying the applicant and the business, if any, employing the applicant as shall be specified by the Police Department.
- (b) Applicants for a permit required by this article for Pool Service (a Pool Service Lifeguard Permit) must be sixteen (16) years of age and hold a valid and current lifesaver's or

lifeguard certificate issued to the applicant by the American Red Cross, the YMCA or equivalent training program approved or operated by the City aquatics department.

- (c) Applicants for a permit required by this article for Gulf Service (a Gulf Service Lifeguard Permit) must hold a valid and current open water lifesaver's or lifeguard certificate issued to the applicant by a program approved or operated by the City aquatics department meeting the following, minimum open water standards:
 - (1) The program must require each applicant to meet the following, minimum prerequisites:
 - (i) Hold American Red Cross cardio pulmonary resuscitation for professional rescuer/automated external defibrillator training certification or American Heart Association Health Care Provider Certification; and
 - (ii) Hold First Aid and Safety certification from American Red Cross or a materially equivalent program approved by the City aquatics department; and
 - (iii) Pass a swim test of five hundred fifty (550) yards open water in less than ten (10) minutes.
 - (iv) Be eighteen (18) years of age.
 - (2) The program curriculum shall include, at a minimum, training approved by the City aquatics department in:
 - (i) Aquatic risk management (water observation and pre-event planning); and
 - (ii) Code enforcement; and
 - (iii) Documentation of public contacts; and
 - (iv) Hydrology and weather conditions; and
 - (v) Victim identification; and
 - (vi) Rescue techniques, including skill and endurance building drills, in small, moderate and large surf; and
 - (vii) Missing swimmer operations (search and rescue); and
 - (viii) Aquatic medical emergency management.
- (d) Notwithstanding the foregoing, applicants for a Lifeguard Permit who have previously held a Lifeguard Permit and a certificate described in subparagraph (b) or (c) above, both of which have expired by the passage of time not more than nine (9) months prior to the application, and who are otherwise qualified for a Lifeguard Permit and have registered and are diligently pursuing renewal of such certificate, may be issued a temporary Lifeguard Permit by the Police Department which Permit shall expire upon the earlier of forty-five (45) days after issuance or the failure of such person to continue to be qualified, registered and diligently pursuing renewal of such certificate.

Sec. 7-19. Term and revocation of permit and appeals.

- (a) Each Lifeguard Permit shall expire on the December 31 next following issuance, regardless of when issued.
- (b) The permit of a Lifeguard who consumes any alcoholic beverage or drug while on duty or who is on duty while under the influence of any alcoholic beverage or drug shall be immediately revoked by the chief of police.
- (c) Appeal from a revocation by the chief of police may be made to the Water Safety Board by written notice delivered to the City Manager, as secretary to the Board, within three (3) business days after such determination and specifying the grounds for appeal.
- (d) No application for a new permit shall be accepted within one (1) year after a final revocation.

Sec. 7-20. ~~Employment of unpermitted lifeguards~~Unpermitted lifeguarding prohibited; insurance.

- (a) ~~The employment~~It is unlawful to employ or use ~~of services~~any person as a Lifeguard of ~~any person who (i) does not holding hold~~a valid, unrevoked current and appropriate (Pool Service or Gulf Service, as required) Lifeguard Permit is unlawful and, (ii) does not comply with the provisions and limitations contained in this article.
- ~~(b)~~It is unlawful for any person to provide Lifeguard services unless that person (i) holds a valid, current and appropriate (Pool Service or Gulf Service, as required) Lifeguard Permit and, (ii) complies with the provisions and limitations contained in this article.
- (c) No person shall employ a Lifeguard and offer his or her services as such to the public who is not insured against general public liability including, without limitation, lifeguard and beachwater safety activities, in an amount not less than one million dollars (\$1,000,000.00) single limit.
- (d) Violation of this section shall be punishable as a Class 2 Infraction as provided in Section 7.502.

Sec. 7-21. Protective advertising without lifeguard prohibited.

- (a) The exhibition of any sign or other advertisement indicating protection to inhabitants or visitors of this City by a lifeguard, beach patrolman or similar title, unless there is on duty at the premises at which any such advertising occurs or to which it refers, a properly registered Lifeguard holding a valid and current Lifeguard Permit, is hereby made unlawful. If the premises involved isare sandy Gulf beach, each such lifeguard shall be responsible for no more than four hundred (400) feet of beachfront. If the premises involved isare a pool, each such lifeguard shall be responsible for no more than one (1) pool. A swimming pool with an adjacent kiddie pool or sauna, or both, shall be considered one pool.
- (b) Violation of this section shall be punishable as a Class 2 Infraction as provided in Section 7.502.

Sec. 7-22. "No Lifeguard" and Beach Safety signage required.

- (a) Any person managing or controlling a Beach Business which permits its business invitees to swim in the waters of the Gulf of Mexico behind such business shall at all times either:
 - (1) Cause such business to furnish one or more Exclusive Lifeguards covering substantially all of its beachfront, where each Exclusive Lifeguard is responsible for no more than two hundred fifty (250) linear yards of beachfront and has a Tower in materially the center of his or her zone of responsibility, or
 - (2) Conspicuously post at every public or common place of egress from such business to the sandy Gulf beach a sign in letters no less than four inches in height stating "No Lifeguard on Duty" and "Swim at Own Risk."
- (b) In addition, any person managing or controlling a Beach Business which permits its business invitees to swim in the waters of the Gulf of Mexico behind such business shall at all times conspicuously post, at every public or common place of egress from such business to the sandy Gulf beach, signs in form and substance approved by the City Manager:
 - (1) explaining the flag warning system; and
 - (2) explaining and warning swimmers of rip currents.

Secs. 7-23--7-30. Reserved.

ARTICLE III. BEACH COMMERCE

Sec. 7-31. Beach Service Businesses--Limitation and accountability.

- (a) The City finds that the only practical way to enforce reasonable safety regulations of Beach Commerce, especially including Beach Amusements, is to impose upon a single Beach Service, and where applicable the upland Owner-Operator to the extent that the Owner-Operator is conducting Beach Commerce alongside the Beach Service, at any given location the non-delegable duty to comply or cause compliance with all of the provisions of this chapter imposing certain obligations upon all of the various persons who may engage in Beach Commerce at that location, and further that a Beach Service is in a position to require and achieve such compliance.
- (b) No person, firm or corporation may offer or provide Beach Commerce except as a Beach Service or as an Owner-Operator duly permitted under this chapter. ___
- (c) Only one Beach Service may operate at any time behind or at any Beach Business or lesser developed Gulf-front parcel of land under common ownership. Only one Owner-Operator may operate at any time behind or at any Beach Business. Any type of Limited Beach Commerce lawfully offered or provided by an Owner-Operator shall not be offered or provided by a Beach Service at the same time behind or at the same Beach Business.
- (d) The Beach Service holding the permit required by this chapter to engage in Beach Commerce at a particular location shall comply or cause compliance with all obligations

imposed by this chapter on every person offering or providing any type of Beach Commerce at that location (except an Owner-Operator and any person acting under the authority of an Owner-Operator, lawfully offering or providing limited Beach Commerce,) upon penalty of a Class 1 Infraction as more fully described below and revocation or suspension of such permit.

(e) The Owner-Operator holding the ~~certificate of compliance permit~~ required by this chapter to offer Limited Beach Commerce behind or at the Owner-Operator's Beach Business shall comply or cause compliance with all obligations imposed by this chapter on every person offering or providing Limited Beach Commerce at that location, upon penalty of a Class 1 Infraction as more fully described below and revocation or suspension of such ~~certificate of compliance permit~~.

(f) Violation of this section shall be punishable as a Class 1 Infraction as provided in Section 7-501. It shall not be a defense to such a civil citation that the Beach Service or upland Owner-Operator did not know of the violation, the City finding that the nature of the activities being regulated requires strict and vicarious liability at the top of the chain-of-command in order to practically achieve sufficient compliance with this Chapter 7 to protect the public health, safety and welfare. If the Beach Service or Owner-Operator is not a natural person, then all persons in Control or Management of the Beach Service or Owner Operator shall be jointly and severally liable for the penalty.

Sec. 7-31.5. Beach Service Businesses--Limitation on use of flags.

(a) It shall be unlawful for any person, firm or corporation offering or providing Beach Commerce to fly or display, or permit to be flown or displayed, any flag, pennant or streamer in a color other than black and/or white on, from or above the waters of the Gulf of Mexico or the sandy Gulf beach seaward of the established line of construction or the coastal construction control line established by the Florida Department of Environmental Protection, whichever is closer to the Gulf water. An established line of construction exists where in the immediate contiguous or adjacent area a number of existing structures have established a reasonably contiguous and uniform construction line. Flag, pennant or streamer means any fluttering, non-stationary device made of flexible material designed, intended or used primarily to attract attention.

~~Sec. 7-32. Beach Service Businesses~~(b) Violation of this section by any person other than a Beach Service or Owner-Operator shall be punishable as a Class 2 Infraction pursuant to Section 7-502. Violation of this section by a Beach Service or Owner-Operator shall be punishable as a Class 1 Infraction pursuant to Section 7-501.

Sec. 7-32. Beach Services and Owner Operators--Permit required for each location.

(a) It shall be unlawful for any Beach Service to provide or offer Beach Commerce at any location unless that Beach Service shall at that time hold a current and valid permit to operate at that particular location issued by the Police Department. AND each person in Control or Management of the Beach Service at that location holds a valid and current certificate of compliance issued pursuant to this article. Each application for a permit

shall include:

- (1) The name, mailing address, and principal place of business of the Beach Service, and
- (2) The names, mailing and residence addresses of all persons who will participate in the Control or Management of the Beach Service and a copy of a current, and valid ~~and unrevoked~~ certificate of compliance issued under this chapter for each such person, and
- (3) The location for which a permit is sought and a survey or drawing certified by the applicant as correct and showing the major improvements and the linear feet of beachfront of such location, and
- (4) A description of all Beach Commerce to be offered or provided at the location, including a description and number of each Beach Amusement, and
- (5) Evidence of all insurance required by this chapter, and
- (6) Evidence of payment of the applicable occupational license tax, and
- (7) Payment of a permit fee in the amount of one hundred dollars (\$100) to defray the cost of issuing such permit and enforcing the regulations contained in this chapter, and
- (8) Evidence of permission from the owner or person in possession of the upland property for the Beach Service (including its agents and independent contractors) to operate at that location, and for the customers of the Beach Service (including its agents and independent contractors) to use the upland restroom facilities, which permission shall state that it is ~~unrevocable~~un-revocable for the duration of the permit, and
- (9) Evidence that the applicant has not had a permit issued pursuant to this section for such location revoked by the City within the ~~twelve (12) month period immediately preceding calendar year in which~~ the application is made, and that any such permit is not the subject of a pending administrative or judicial action or appeal.
- (10) Such other information as the chief of police shall deem necessary to implement this chapter.

~~(b) The issuance of a certificate of compliance to an Owner-Operator shall be deemed to be and constitute a permit to operate as an Owner-Operator behind or at the Beach Business for which such certificate of compliance was issued.~~

(b) It shall be unlawful for any person to operate as an Owner-Operator, or to participate in the Control or Management of an Owner-Operator, unless the Owner-Operator holds a current and valid Owner-Operator permit to conduct Limited Beach Commerce issued by the Panama City Beach Police Department for the particular Beach Business where the Limited Beach Commerce is being offered or provided. No Owner-Operator shall be issued an Owner-Operator permit unless such Owner-Operator shall demonstrate or provide all of the following:

- (1) The name and location of the Beach Business for which a permit is sought and a

survey or drawing certified by the applicant as correct showing the major improvements and the linear feet of beachfront of such location.

(2) Evidence that the Owner-Operator owns or has the legal right to operate and control the Beach Business for which the permit sought. Termination of such ownership or right to control shall immediately and automatically terminate the Owner-Operator permit.

(3) A certificate executed by the chief executive officer, partner, or sole proprietor of the Owner-Operator that all relevant management personnel of the Owner-Operator have read and have a personal, reference copy of a current version of this chapter.

(4) Evidence that the Owner-Operator has not suffered the revocation of any permit issued pursuant to this article within the calendar year in which the application is made, nor is any such permit held by the Owner-Operator the subject of a pending administrative or judicial action or appeal.

(5) Payment of a registration fee in the amount of fifty (50) dollars.

(6) Such other information as the chief of police shall deem necessary to implement this chapter.

(c) Each permit shall expire on the December 31 next following issuance, regardless of the date of issuance.

(d) Violation of this section shall be punishable as a Class 1 Infraction pursuant to Section 7-501.

Sec. 7-33. Persons operating a Beach Service--Certificate of compliance required.

- (a) It shall be unlawful for any natural person to participate in the Control or Management of a Beach Service unless such person holds a current and valid Beach Service certificate of compliance issued by the Police department. No person shall be issued a Beach Service certificate of compliance unless such person shall demonstrate or provide all of the following:
- (1) That such person has a minimum of two (2) summer seasons' (Memorial Day through Labor Day) experience (i) as an employee of a Beach Service personally working full time on or about the sandy beach within the past three years, or (ii) as an owner and operator of a Beach Service on the Panama City beaches before the passage of this law.
 - (2) That such person holds (i) a boater safety identification card issued by the Florida Department of Environmental Protection pursuant to F.S. § 327.395, regardless of such person's age, or (ii) a captain's license issued by the United States Coast Guard.
 - (3) That such person has read and has a personal, reference copy of a current version of this chapter.

(4) That such person's certificate of compliance has not been revoked within the ~~twelve (12) month period immediately preceding~~ calendar year in which the application is made and that any such certificate is not the subject of a pending administrative ~~action or appeal.~~ judicial action or appeal.

~~(5) Payment of a registration fee in the amount of fifty (50) dollars.~~

~~(6) Such other information as the chief of police shall deem necessary to implement this chapter.~~

~~(b) It shall be unlawful for any person to operate as an Owner Operator, or to participate in the Control or Management of an Owner Operator, unless the Owner Operator holds a current and valid Owner Operator certificate of compliance issued by the Panama City Beach Police Department for the particular Beach Business where Limited Beach Commerce is being offered or provided. No Owner Operator shall be issued an Owner Operator certificate of compliance unless such Owner Operator shall demonstrate or provide all of the following:~~

~~(1) The name and location of the Beach Business for which a certificate of compliance is sought and a survey or drawing certified by the applicant as correct showing the major improvements and the linear feet of beachfront of such location.~~

~~(2) That such Owner Operator owns or has the legal right to operate and control the Beach Business for which the certificate is sought. Termination of such ownership or right to control shall require the Water Safety Board to immediately revoke, after notice and hearing, the certificate of compliance.~~

~~(3) A certificate executed by the chief executive officer, partner, or sole proprietor of the Owner Operator that all relevant management personnel of the Owner Operator have read and have a personal, reference copy of a current version of this chapter.~~

~~(4) That such Owner Operator's certificate of compliance has not been revoked within the twelve (12) month period immediately preceding the application and is not the subject of a pending administrative~~

(5) Payment of a registration fee in the amount of fifty (50) dollars.

(6) Such other information as the chief of police shall deem necessary to implement this chapter.

~~(eb) Each certificate of compliance shall expire on the December 31 next following issuance, regardless of the date of issuance.~~

~~(c) Violation of this section shall be punishable as a Class 1 Infraction pursuant to Section 7-501.~~

Sec. 7-34. Persons Offering or Providing Beach Commerce--Lifeguard Permit required and exception.

(a) Except as provided in subsection (b), no person, business, Beach Service or Owner-Operator shall engage in Beach Commerce to the public at any location on the

sandy beaches of the Gulf of Mexico unless such person, or another person engaged in Beach Commerce at the same time and place, shall at a minimum hold a valid and current Pool Service Lifeguard Permit.

(b) This section shall not apply whenever such Beach Commerce is conducted from a location covered at the same time by an Exclusive Lifeguard.

(c) The legislative intent of this section is to require a minimum of training to improve the ability of persons engaged in beach commerce to protect themselves, the City finding that such commerce is frequently performed by young persons working on the water, in the water or at the water's edge, who are frequently willing to assist others in need. Compliance with this section shall not be construed to designate the person holding a Lifeguard Permit as a Lifeguard or as an Exclusive Lifeguard, or impose upon such person the duties of a Lifeguard or Exclusive Lifeguard.

(d) Violation of this section by any person, business, Beach Service or Owner-Operator shall be punishable as a Class 3 Infraction pursuant to Section 7-503.

Sec. 7-35. Location of Beach Commerce--Setback.

(a) It shall be unlawful for any person, business, Beach Service or Owner-Operator to provide or offer Beach Commerce within ten (10) feet of the boundary line of the property on which such person, business, Beach Service or Owner-Operator is authorized to conduct such business.

(b) Violation of this section by any person other than a Beach Service or Owner-Operator shall be punishable as a Class 2 Infraction pursuant to Section 7-502. Violation of this section by a Beach Service or Owner-Operator shall be punishable as a Class 1 Infraction pursuant to Section 7-501.

Sec. 7-36. Storage boxes.

(a) Any storage box or similar structure located on the sandy Gulf beach shall be painted solid white and maintained in good repair and in a clean, neat, orderly and freshly painted condition. No sign or graphics shall be placed thereon except one (1) identifying plaque no more than two (2) square feet in size. Any person allowing or using a storage box or similar structure not in compliance with this section shall be guilty of a separate violation of this chapter for each day such box or similar structure shall be out of compliance.

(b) Violation of this section by any person other than a Beach Service or Owner-Operator shall be punishable as a Class 2 Infraction pursuant to Section 7-502. Violation of this section by a Beach Service or Owner-Operator shall be punishable as a Class 1 Infraction pursuant to Section 7-501.

Secs. 7-37--7-40. Reserved.

ARTICLE IV. BOAT AND WATER SAFETY

DIVISION 1. GENERALLY

Sec. 7-41. Adoption of state motorboat safety laws.

In the interest of public safety, there is hereby adopted the provisions of F.S. §§ 327.30 through 327.72, relating to the operation and maintenance of motorboats, and the same shall be applicable in all waters within the jurisdiction of the City.

Sec. 7-42. Floating objects near piers prohibited.

(a) The use or possession within or on the Gulf waters of the City, within four hundred (400) feet of any dock or pier, of any surfboard or boat, whether powered or unpowered, or other floating devices of any nature whatsoever, except life jackets, life rafts or other devices intended and used primarily for lifesaving purposes, is hereby prohibited and made unlawful.

(b) Violation of this Section shall be punishable as a Class 3 Infraction as provided in Section 7-503.

Sec. 7-43. Speed limit of boats, etc.

(a) No person shall operate or assist in the operation of any motorboat, sailboat, sled, watercraft, Personal Watercraft or device of any nature propelled by any method, in or upon any water area within the City, at a rate of travel in excess of Idle Speed.

(b) No person shall lease or hire within the City, as lessor or lessee, any motorboat, sailboat, sled, watercraft, Personal Watercraft or device of any nature propelled by any method, which is operated in the Gulf waters within nine hundred (900) feet of shore at a rate of travel in excess of Idle Speed.

(c) Violation of this Section shall be punishable as a Class 2 Infraction as provided in Section 7-502.

Sec. 7-44. Exceptions; permit required.

(a) Exception from the speed limit imposed by section 7-43 may be made by permit for any organized water show or similar entertainment event. To obtain such a permit, the promoter, organizer or sponsor of the event shall make application therefor to the City Clerk, and shall:

- (1) Present proof of general public liability insurance in an amount not less than one million dollars (\$1,000,000.00), naming the City as an additional insured and providing the City with a minimum of ten (10) days' notice of cancellation;
- (2) Inform the clerk as to the time, date and location of the event; and
- (3) Pay a permit fee in the amount of one hundred dollars (\$100.00).

Upon fulfillment of the requirements of subsections (1) through (3) and the applicant's acceptance of the regulations and requirements imposed under subsection (b), the City Clerk shall issue the applicant a permit.

- (b) The issuance of a permit under subsection (a) shall be subject to such reasonable safety regulations and requirements as may be imposed by the chief of police to whom is hereby delegated the responsibility to promulgate such regulations and requirements.
- (c) No permit shall be issued under subsection (a) by the City Clerk absent the concurrence of the chief of police.

Secs. 7-45--7-60. Reserved.

DIVISION 2. BEACH AMUSEMENTS

Sec. 7-60.5. Amusements prohibited.

- (a) The rental, sale, solicitation, offering or conduct of any waterborne amusement, ride or watercraft not expressly permitted and regulated herein as a Beach Amusement is hereby prohibited.
- (b) Violation of this section by any person other than a Beach Service or Owner-Operator shall be punishable as a Class 2 Infraction pursuant to Section 7-502. Violation of this section by a Beach Service or Owner-Operator shall be punishable as a Class 1 Infraction pursuant to Section 7-501.

_(Ord. No. 568, § 1, 7-23-98)

Sec. 7-61. Personal Watercrafts--Registration and fee required.

- (a) Each Personal Watercraft rented, leased or hired within the City shall be registered with the police department. The application for registration shall include:
 - (1) The name, residence and mailing address of the owner of the watercraft, and
 - (2) The name and mailing address of the person and business and, if different, the Beach Service offering the watercraft for rent, and
 - (3) The location where the watercraft will be rented, and
 - (4) A description of the watercraft, including a copy of its certificate of title, where applicable, and
 - (5) Evidence of Florida registration of the watercraft, where applicable, and
 - (6) A certificate of the insurance required by section 7-64 issued in favor of the City and stating that the City shall receive ten (10) days written notice in advance of cancellation, and
 - (7) An original of either the declaration page, a certificate, or other confirmation of insurance which has been executed or counter-signed by either an insurance agent licensed by the State of Florida, Department of Insurance or a Surplus Lines Agent licensed by the State of Florida, Department of Insurance to handle the placement of insurance coverages with insurers made eligible to issue insurance coverage under the Surplus Lines Law, and

- (8) Such other information as the chief of police shall deem necessary to implement this chapter.
- (b) Each Personal Watercraft shall be the subject of a single application and each application shall be accompanied by a registration fee in the amount of twenty five dollars (\$25.00) to defray the cost of conducting such registration and enforcing the regulations contained in this chapter.
- (c) The Police department shall assign a registration decal, including a number or letter and a colored field, for each Personal Watercraft.
- (d) Each registration shall expire on the December 31 next following issuance, regardless of the date of issuance.

Sec. 7-62. Reserved.

Sec. 7-63. ~~Parasails, tow boats, etc.~~ Beach Amusements--Registration and fee required.

- (a) Each ~~tow boat~~Tow Boat pulling a Parasail, Kite or Watersled rented, leased or hired within the City ~~to pull as part of a parasail, kite~~Parasail, Kite or watersledWatersled Ride, together with ~~its Shuttle Craft, and each Hydro-Flyer, and if different~~ its Shuttle Craft, shall be registered with the police department. The application for registration shall include:
 - (1) The name, residence and mailing address of the owner of the ~~boat and the Shuttle Craft~~registered device, and
 - (2) The name and mailing address of the person and business and, if different, the Beach Service offering the rental or amusement, and
 - (3) The location where the rental or amusement will be offered, and
 - (4) A description of the ~~tow boat~~Tow Boat, Shuttle Craft, and the device to be pulled, or of the Hydro-Flyer, and if different its Shuttle Craft, including a copy of the certificate of title where applicable, and
 - (5) Evidence of Florida registration of the ~~boat and~~Tow Boat and Hydro-Flyer, and if different its Shuttle Craft, and
 - (6) A certificate of the insurance required by section 7-64 issued in favor of the City and stating that the City shall receive ten (10) days written notice in advance of cancellation, and
 - (7) An original of either the declaration page, a certificate, or other confirmation of insurance which has been executed or counter-signed by either an insurance agent licensed by the State of Florida, Department of Insurance or a Surplus Lines Agent licensed by the State of Florida, Department of Insurance to handle the placement of insurance coverages with insurers made eligible to issue insurance coverage under the Surplus Lines Law, and
 - (8) If no Shuttle Craft is included in the application, a written statement of how the

applicant intends to lawfully operate the amusement and transport customers to ~~the tow boat~~ride.

- (9) Such other information as the Chief of Police shall deem necessary to implement this ~~Chapter~~chapter.
- (b) Each such ~~tow boat~~Tow Boat and Shuttle Craft and each Hydro-Flyer, and if different its Shuttle Craft, shall be the subject of a single application and each application shall be accompanied by a registration fee in the amount of fifty dollars (\$50.00) to defray the cost of conducting such registration and enforcing the regulations contained in this chapter.
- (c) The Police department shall assign a registration decal, including a number or letter and a colored field, for each ~~tow boat and~~Tow Boat and Shuttle Craft or each Hydro-Flyer and if different its Shuttle Craft.
- (d) Each registration shall expire on the December 31 next following issuance, regardless of the date of issuance.

Sec. 7-64. Insurance required.

- (a) Each Personal Watercraft, each combination ~~tow boat~~Tow Boat and ~~parasail, kite~~Parasail, Kite, or ~~the like pulled by a tow boat~~Watersled Ride, and each Shuttle Craft, Hydro-Flyer and Shuttle Craft rented, leased or hired within the City, and each Beach Amusement Park drawing patrons from the City, shall be insured against bodily injury and property damage in an amount not less than one million dollars (\$1,000,000.00) combined single limit per occurrence, or such insurance as is required by the State of Florida, whichever provides the greater limits and protection of the public.
- (b) Additionally, each person and business renting such devices, or offering or assisting such rides, or offering or assisting in access within the City to a Beach Amusement Park, and the applicable Beach Service if different, shall maintain commercial general liability insurance with combined single limits (covering bodily injury, personal injury and property damage) of not less than one million dollars (\$1,000,000.00) per occurrence.
- (c) The insurance required under this section shall be underwritten by an insurer authorized by the State of Florida, Department of Insurance to transact business in the State of Florida or an unauthorized insurer which has been made eligible by the State of Florida, Department of Insurance to issue insurance coverage under the Surplus Lines Law, Sections 626.913 - 626.937 F.S.

Sec. 7-65. Beach Amusements--Lifeguard Permit required.

- (a) Except as provided in subsection (b), no person, business or Beach Service shall provide or offer a Beach Amusement to the public at any location on the sandy beaches of the Gulf of Mexico unless such person, or another person providing or offering the same or another Beach Amusement at the same time and place, shall at a minimum hold a valid and current Pool Service Lifeguard Permit.
- (b) This section shall not apply whenever such Beach Amusement (i) consists of either four (4) or less Personal Watercrafts or a single parasail, kite or similar ride, and (ii) is provided

at the same time and place as a lawfully operating Beach Service.

- (c) The legislative intent of this section is to require a minimum of training to improve the ability of persons engaged in beach commerce to protect themselves, the City finding that such commerce is frequently performed by young persons working on the water, in the water or at the water's edge, who are frequently willing to assist others in need. Compliance with this section shall not be construed to designate the person holding a Lifeguard Permit as a Lifeguard or as an Exclusive Lifeguard, or impose upon such person the duties of a Lifeguard or Exclusive Lifeguard.
- (d) In the event of a conflict between this Section 7-65 and Section 7-34, or any similar law replacing or superseding Section 7-34, this Section shall prevail.
- (e) Violation of this section by any person other than a Beach Service or Owner-Operator shall be punishable as a Class 2 Infraction pursuant to Section 7-502. Violation of this section by a Beach Service or Owner-Operator shall be punishable as a Class 1 Infraction pursuant to Section 7-501.

Sec. 7-66. Beach Amusements: Prohibited acts.

- (a) It shall be unlawful for any person to rent, lease or hire within the City, a Personal Watercraft for use on or in the waters of the Gulf of Mexico, or solicit the same within the City, unless:
 - (1) Such watercraft is insured as required by this ~~Chapter~~chapter and registered with the City in the name of the person of business offering the watercraft to the public and listing the applicable Beach Service, if different.
 - (2) Each person and business renting such watercraft, and the applicable Beach Service if different, is insured, all as required in this ~~Chapter~~chapter; and
 - (3) There is provided for each rental location a water channel perpendicular to the shoreline, not less than ten (10) feet in width, and marked by at least (i) one yellow, orange or red buoy not less than seventy-five (75) inches in circumference and anchored nine hundred (900) feet from the shoreline, (ii) two yellow, orange or red buoys not less than fifty (50) inches in circumference and anchored ten (10) feet apart and approximately three hundred (300) feet from the shoreline, and (iii) two yellow, orange or red buoys not less than thirty-six (36) inches in circumference and anchored ten (10) feet apart and approximately fifty (50) feet from the shoreline, and (iv) two orange or red cones or signs not less than twenty-eight (28) inches high erected at the waterline, and all rented watercraft are required to leave and return to the beach through such channel; and
 - (4) There shall be posted, within fifty (50) feet landward of such channel a sign posting the established speed limit of Idle Speed for all rented watercraft within nine hundred (900) feet of shore; ~~and,~~
- (b) It shall be unlawful for any person to conduct or assist in conducting, in whole or in part within the City (the City limits extending into the Gulf of Mexico three hundred (300) feet from the shoreline), a ~~parasail, kite or watersled ride~~Parasail, Kite, Watersled or Hydro-Flyer Ride.

(c) It shall be unlawful for any person within the City to solicit, sell, or arrange, or assist another in the solicitation, sale or arrangement of, a ~~parasail, kite~~Parasail or ~~similar ride~~Kite Ride on or above the waters of the Gulf of Mexico in exchange for a fee or value, unless:

- (1) The ~~tow boat, parasail, kite,~~Tow Boat, Parasail or ~~the like used in such ride,~~Kite Ride and the Shuttle Craft, are insured and registered, and each person and business offering or assisting such ride is insured, all as required under this ~~Chapter~~chapter; and
- (2) A current registration decal issued under this ~~Chapter~~chapter is permanently affixed to the ~~tow boat~~Tow Boat and the Shuttle Craft; and
- (3) The aerial ride originates in, is conducted and ends on the waters of the Gulf of Mexico, the parasail ("chute") or kite or other areal device is never closer than three hundred (300) feet from the shoreline, and the ~~tow boat~~Tow Boat operates at Idle Speed at all times that it is less than nine hundred (900) feet from the shoreline, except in an emergency; and
- (4) The aerial ride originates and is conducted at all times no closer than one (1) statute mile from any other operating ~~parasail, kite~~Parasail or ~~similar ride~~Kite Ride, except in an emergency; and
- (5) The person and business soliciting, selling or arranging the aerial ride shall take all immediate measures which a reasonable, experienced operator of a parasail ride would believe to be effective to prevent unsafe operation of the Shuttle Craft or parasail ride, including suspension of business at any time when the ~~nearshore~~near shore waters are congested with swimmers, personal watercraft or other boats, or operation is complicated by adverse weather conditions, or both. Unsafe operation shall mean operation that under the circumstances creates any unusual or unnecessary risk of personal injury or property damage; and
- (6) Patrons are transported to the ~~tow boat~~Tow Boat by Shuttle Craft so that neither the ~~tow boat~~Tow Boat nor other larger or propeller driven watercraft is required to routinely enter the waters of the City, and such Shuttle Craft ~~is and~~ Tow Boat are operated by a captain licensed as such by the United States Coast Guard whenever patrons are being transported; and

~~Notwithstanding the foregoing, in the event of a mechanical failure of the Shuttle Craft, the Chief of Police or his designee may issue or renew a special permit to allow the towboat to enter the waters of the City for a period of not to exceed twenty four (24) hours if, after considering the location, congestion in the water, surf conditions, the nature of the mechanical failure and the likelihood of a prompt repair or replacement, and weather generally, the Chief or his designee find that there will be no material increase in risk of injury to swimmers. The special permit may be renewed one or more times, but may not be substituted for repair or replacement of the shuttle craft within a reasonable time. The operator shall have no vested rights in a special permit and, in the event of a mistake or change in circumstances making the operation of the towboat near shore dangerous, a special permit shall be canceled without notice by the Chief of Police or his~~

~~designee.~~

- (7) The ~~tow boat~~Tow Boat is equipped with no more than six hundred (600) feet of tow line or cable connecting the parasail ("chute") or kite to the ~~tow boat~~Tow Boat.
- (d) It shall be unlawful for any person within the City to solicit, sell, or arrange, or assist another in the solicitation, sale or arrangement of, a ~~watersled tow ride~~Watersled Ride on the waters of the Gulf of Mexico in exchange for a fee or value, unless:
- (1) The ~~tow boat~~Tow Boat and the ~~watersled~~sled, float or other device used in such ride, and the Shuttle Craft, are insured and registered, and each person and business offering or assisting such ride is insured, all as required under this ~~Chapter~~chapter; and
 - (2) A current registration decal issued under this ~~Chapter~~chapter is permanently affixed to the ~~tow boat~~Tow Boat and the Shuttle Craft; and
 - (3) The ride originates in, is conducted entirely over, and ends on the waters of the Gulf of Mexico more than nine hundred (900) feet from the shoreline, except in an emergency; and
 - (4) The ride originates and is conducted at all times no closer than one-half (-1/2) statute mile from any other operating ~~watersled tow rides~~Watersled Ride or Parasail or Kite Ride or Hydro-Flyer Ride, except in an emergency; and
 - (5) The person and business soliciting, selling or arranging such ride shall take all immediate measures which a reasonable, experienced operator of a watersled ride would believe to be effective to prevent unsafe operation of the Shuttle Craft or watersled ride, including suspension of business at any time when the nearshore waters are congested with swimmers, personal watercraft, or other boats, or operation is complicated by adverse weather conditions, or both. Unsafe operation shall mean operation that under the circumstances creates any unusual or unnecessary risk of personal injury or property damage; ~~and~~
 - (6) Either (i) the occupied watersled is towed at Idle Speed from and to the shore by a Shuttle Craft, or (ii) patrons are transported to the ~~tow boat~~Tow Boat by Shuttle Craft so that neither the ~~tow boat~~Tow Boat nor other larger or propeller driven watercraft is required to routinely enter the waters of the City. In addition, such Shuttle Craft ~~and Tow Boat~~ shall be operated by a captain licensed as such by the United States Coast Guard whenever patrons are being transported or towed.
- (e) It shall be unlawful for any person within the City to solicit, sell, or arrange, or assist another in the solicitation, sale or arrangement of access to a Water Amusement Park on the waters of the Gulf of Mexico, or to operate a Water Amusement Park within the City limits, in exchange for a fee or value, unless:
- (1) Each patron is required to wear, and does wear, a personal flotation device approved by the Coast Guard for the purpose; and
 - (2) Each amusement device and vessel used in the operation and maintenance of the Water Amusement Park, and each Shuttle Craft, if any, are insured and registered, and each person and business offering or assisting in the operation of the Park is

- insured, all as required under this chapter; and
- (3) A current registration decal issued under this chapter is permanently affixed to any Shuttle Craft; and
 - (4) The person and business soliciting, selling or arranging such access, and responsible for operating a Park within the City limits, shall take all immediate measures which a reasonable, experienced operator of a Water Amusement Park would believe to be effective to prevent unsafe operation of any aspect of the Park or the Shuttle Craft, including suspension of business at any time when the Gulf waters are rough or congested with swimmers, personal watercraft, or other boats, or operation is complicated by adverse weather conditions, or both. Unsafe operation shall mean operation that under the circumstances creates any unusual or unnecessary risk of personal injury or property damage; and
 - (5) Either patrons individually swim out to the Water Amusement Park or patrons are transported to the Park by Shuttle Craft so that no larger or propeller driven watercraft is required to routinely enter the waters of the City, and such Shuttle Craft is operated by a captain licensed as such by the United States Coast Guard whenever patrons are being transported; and
 - (6) The Water Amusement Park contains five (5) or less inflated amusements; and
 - (7) Each amusement is anchored not less than three-hundred (300) feet from shore and in a depth not less than the minimum recommended by the manufacturer of that particular amusement.
- (f) It shall be unlawful for any person to within the City to solicit, sell, or arrange, or assist another in the solicitation, sale or arrangement of, a Hydro-Flyer Ride on the waters of the Gulf of Mexico in exchange for a fee or value, unless:
- (1) The Hydro-Flyer, the impeller driven craft providing the water flow (which may also be the Shuttle Craft) and the Shuttle Craft, if separate, are insured and registered, and each person and business offering or assisting such ride is insured, all as required under this chapter; and
 - (2) A current registration decal issued under this chapter is permanently affixed to the impeller driven craft providing the water flow and, if separate, the Shuttle Craft; and
 - (3) The ride originates in, is conducted and ends on the waters of the Gulf of Mexico never closer than three hundred (300) feet from the shoreline; and
 - (4) The ride originates and is conducted at all times no closer than one hundred (100) yards from any other operating Beach Amusement device; and
 - (5) The person and business soliciting, selling or arranging the ride shall take all immediate measures which a reasonable, experienced operator of a Hydro-Flyer Ride would believe to be effective to prevent unsafe operation of the Shuttle Craft, the pump, the foot-board or the back-pack, including suspension of business at any time when the near shore waters are congested with swimmers, personal watercraft or other boats, or operation is complicated by adverse weather conditions, or both. Unsafe operation shall mean operation that under the

circumstances creates any unusual or unnecessary risk of personal injury or property damage; and.

- (6) Patrons are transported to the ride by Shuttle Craft operated within a water channel established and marked the same as required for Personal Watercraft rentals, and such Shuttle Craft is operated by a captain licensed as such by the United States Coast Guard whenever patrons are being transported; and.
- (7) During the ride, the person responsible for the Hydro-Flyer is seated on the Personal Watercraft which provided the lift and has the ability to decrease the flow as needed for safety.

~~(g(e) It shall be unlawful for any person to manage or control any Beach Business whenever any Beach Amusement shall be offered or provided on the beachfront of such business in violation of this section.~~

- (f) No person shall operate any Personal Watercraft rented, leased or hired within the City, within nine hundred (900) feet of the edge of the waters of the Gulf of Mexico, unless operating within a channel properly marked pursuant to subsection (a)(3).__
- (gh) No person shall knowingly swim within any channel properly marked pursuant to subsection (a)(3).
- (i) A violation of any one or more of sub-sections (a) through (f) by any person other than a Beach Service shall be punishable as a Class 2 Infraction as provided in Section 7-502. A violation of any one or more of sub-sections (a) through (f) by a Beach Service shall be punishable as a Class 1 Infraction as provided in Section 7-501. A violation of sub-sections (g) or (h) shall be severally punishable as a Class 3 Infraction as provided in Section 7-503.

Sec. 7-67. ~~Location of beach~~Beach amusements--Setback and density requirements.

- (a) It shall be unlawful for any person, business or Beach Service to provide or offer any Beach Amusement within fifty (50) feet of the boundary line of the property on which such person, business or Beach Service is authorized to conduct business, provided that if the Gulf front of such property is less than one hundred (100) feet such provision or offering may be made in the center of the Gulf front of such property.
- (b) It shall be unlawful for any person, business or Beach Service to provide or offer more than eight (8) Personal Watercraft for rent at any location on the sandy Gulf beach.
- (c) It shall be unlawful for any person, business or Beach Service to provide or offer Personal Watercraft for rent at any location on the sandy Gulf beach within two hundred (200) feet of another such location situated on the same property or contiguous properties which have been combined to calculate the points allowed under this Section.
- (d) It shall be unlawful for any person, business or Beach Service to provide or offer any Beach Amusement for rent at any location on the sandy Gulf beach whenever the aggregate number of points (as specified below) of all Beach Amusements provided or offered, or both, on the sandy beach of the parcel containing that location shall exceed the

number of linear feet of beachfront of such parcel. The points to be aggregated are:

1. *Personal Watercraft*: 200 points.
2. *Hobicat, Sunfish, Prindle or similar sailboat*: 15 points.
3. *Sailboard*: 10 points.
4. *Kayak, Canoe or similar paddle boat*: 10 points.
5. *Watercycle*: 5 points.
6. Surfboard or Boogie-Board: 5 points.
7. Shuttle Craft: 20 points.
8. Water Amusement Park: 40 points per inflated amusement.
9. Hydro-Flyer Ride: 200 Points

In determining the number of Beach Amusements permitted at any location, the following rules of construction shall apply: Whenever the number of lineal feet of beachfront of any parcel shall exceed one hundred over any multiple of two hundred, then for the sole purpose of determining the number of Personal Watercraft permitted, the number of lineal feet shall be rounded up to the next multiple of one hundred.

- (e) It shall be unlawful for any person to manage or control any Beach Business whenever any Beach Amusement shall be offered or provided on the beachfront of such business in violation of this section.
- (f) A violation of this section by any person other than a Beach Service shall be punishable as a Class 2 Infraction as provided in Section 7-502. Violation of this section by a Beach Service shall be punishable as a Class 1 Infraction as provided in Section 7-501.

Secs. 7-68, 7-69. Reserved.

DIVISION 3. WATER SAFETY BOARD

Sec. 7-70. Water Safety Board created.

There is hereby created the Water Safety Board of the City.

(Ord. No. 568, § 1, 7-23-98)

Sec. 7-71. Members.

- (a) The Water Safety Board of the City of Panama City Beach, Florida, shall consist of five (5) members, as follows:
 - (1) ~~A person who is engaged in the Control Or Management of a Beach Service and who holds a valid certificate of compliance issued under this Chapter;~~

- ~~(2) A parasail operator who is engaged in the business on Panama City Beach and who holds a valid captain's license issued by the United States Coast Guard;~~
- ~~(3) A Personal Watercraft rental operator who is engaged in the business on Panama City Beach and who holds a valid certificates of compliance issued under this Chapter;~~
- ~~(4) The ownerTwo owners or operatoroperators of a Beach Business on Panama City Beach, (other than a beachfront motel or hotel) appointed by the City Council;~~
- ~~(5) The owner(2) Two owners or operatoroperators of a beachfront motel or hotel or condominium on Panama City Beach appointed by the City Council.~~
- ~~(3) A Gulf-front resident of the City of Panama City Beach appointed by a majority of the other four members appointed by the City Council.~~

An Owner-Operator or a natural person in Control or Management of a Beach Service or an Owner-Operator may not serve on the Board.

- ~~(b) The initial Board shall be four members appointed by the City Council shall serve for such staggered terms as a majority of the councilCouncil shall decide. The member appointed by the other four shall serve for a term of three calendar (3) years.~~
- ~~(c) Terms shall expire and new appointments shall be effective on October 1(c) Except for the initial, staggered terms, all terms of office shall be for three (3) calendar years expiring on December 31 of the third year regardless of the date of the initial appointment, provided that all members shall serve until their successors are duly qualified and appointed. AfterIn the first term, all memberseven of a vacancy, the office shall be appointedfilled for a term of three (3) yearsthe remainder of the term and in the same way as the original appointment.~~
- ~~(d) An owner or operator whose beachfront property is being used by a contestant appearing before the Board shall recues himself or herself from that hearing. If more than two recusals occur, the City Council shall appoint for each recusal an interim member who shall have the same qualification as the seat being temporarily filled.~~

Sec. 7-72. Chairman; secretary; quorum.

~~The senior memberA majority of the entire Board shall act aselect from its number a chairman, who shall serve at the pleasure of a majority of the entire board. The City Manager,Clerk or his designated representative, or her designee shall serve as secretary to the Board. Any three (3) Board members shall constitute a quorum with an elected chairman pro tem in the absence of the regular chairman. The action of a majority of a quorum shall be the action of the Board in all cases.~~

Sec. 7-73. Meetings.

~~Regular meetingsMeetings of the Board shall be held at City Hall and noticed on the George C. Cowgill Annex at least once each month whenever any matter is pending before the Board, at such times as the Board may by rule, from time to time, establish. Special meetings of~~

~~the Board may~~ City website. Meetings shall be called by the chairman, the City Manager or three (3) members of the Board ~~at other times and places.~~

Sec. 7-74. Records.

The ~~Board~~ City Clerk, or his or her designee, shall keep in the office of the ~~police department a book in which shall be recorded the date~~ City Clerk all records and action correspondence of the Board ~~in revocation or suspension proceedings, and a book in which the signatures~~ minutes of the members ~~all actions~~ of the Board ~~participating in any action~~ board shall be maintained.

Sec. 7-75. Powers and duties of Board.

The powers and duties of the Water Safety Board shall include the following:

- (1) To give notices of hearings ~~and, issue subpoenas to compel testimony,~~ conduct hearings upon ~~administrative charges of Civil Citations charging a~~ violation of the provisions of this chapter ~~by any person subject to the provisions of this chapter and determine whether a violation occurred.~~
- (2) To make findings of fact at the conclusion of hearings based upon evidence presented or stipulations of the parties.
- (3) To make conclusions of law.
- (4) To suspend or revoke the permit of any Beach Service found by the Board to have violated any of the provisions of this chapter or Owner-Operator for cause as provided in this division.
- (35) To suspend or revoke the certificate of compliance of any person ~~or Owner-Operator found by the Board to have violated any of the provisions of or~~ cause as provided in this chapter division.
- (4) ~~Where expressly provided by law, to hear the appeal of any persons who may be aggrieved by an administrative action or order of the City. Written notice of appeal specifying the grounds thereof shall be filed with the secretary to the Board as provided by law. The Board shall as soon as may be practicable conduct a hearing at which the City official and the aggrieved party shall be entitled to present evidence and cross-examine witnesses. Either party may be represented by an attorney at law. The aggrieved party shall carry the burden of establishing by greater weight of the evidence that the action or order of the police department or law enforcement officer was arbitrary, unauthorized, or otherwise unfounded. The hearing shall be conducted in a manner to provide the aggrieved party due process to challenge the action or order, and the decision of the Board shall be contingent upon evidence and argument presented at the hearing. The rules of evidence shall not apply and any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons rely in the conduct of serious affairs. A record of the hearing shall be made by electronic recording or otherwise. The decision of the Board shall be final. The aggrieved party shall be entitled to seek review of the final decision of the Board by certiorari in the Circuit Court for Bay~~

County, Florida.

- ~~(5) To enforce provisions of this chapter wherever required or authorized.~~
- (6) To hear the appeals of persons who may be aggrieved by an administrative interpretation of this chapter by the City Manager, the Chief of Police or one of their subordinates, other than an interpretation made or included in the issuance of a Civil Citation or criminal charge which may be reviewed only under sub-paragraph (1) of this Section.
- (7) To make recommendations to the City Council regarding amendments to this chapter.

Sec. 7-76. Revocation or suspension of permits and certificates of compliance.

- ~~(a) The~~ In addition to any other civil or criminal penalties authorized by City ordinance or state law, the provisions of this chapter shall be enforced by the Police Department through a complaint before the Water Safety Board shall to revoke or suspend a permit or certificate of compliance issued pursuant to this chapter, as provided in this section.
- ~~(b) After notice and opportunity for hearing upon a complaint brought by the Police Department, the Water Safety Board shall revoke for cause any Beach Service's annual permit to operate at a particular location, if for one (1) or more of the following grounds shall exist, numbered offenses:~~
 - ~~(1) Misrepresentation of(1) The Beach Service shall have misrepresented by commission or omission any material fact in the application for the permit; or~~
 - ~~(2) Failure(2) The Beach Service or any employee, agent or independent contractor or subcontractor, et cetera, of the Beach Service, or an employee or agent of any of those, in the course of offering or providing any type of Beach Commerce at that location under the authority of that permit shall have been convicted of or pled nolo contendere (regardless of adjudication of guilt) to a total of five (5) criminal citations for violations of this chapter or federal or state law pertaining to the safe operation or maintenance of a watercraft or other Beach Amusement within the current and immediately past calendar years; or~~
- ~~(c) After notice and opportunity for hearing upon a complaint brought by the Police Department, the Water Safety Board shall suspend or revoke for cause any Beach Service's annual permit to operate at a particular location for three or more of any of the following offenses committed within one (1) calendar year:~~
 - ~~(1) The Beach Service or any employee, agent or independent contractor or subcontractor, et cetera, of the Beach Service, or an employee or agent of any of those, in the course of offering or providing any type of Beach Commerce at that location, shall have failed to fulfill or cause to be fulfilled any one of the obligations imposed by this chapter on everythe Beach Service or such person offering or providing any type of Beach Commerce at that location, except an Owner Operator or any; or~~

- ~~(2) The Beach Service, if a natural person acting under the authority of, or an Owner-Operator, lawfully offering or providing Limited Beach Commerce.~~
- ~~(3) Whenever the employees of a employee or agent of the Beach Service, or of any agent, or of an independent contractor or sub-contractorsubcontractor, et cetera, of the Beach Service, while engaged in the course of offering or providing any type of Beach Commerce at that location shall, while on duty, consume, take or beunder the authority of the Beach Service's permit consumes or is under the influence of any alcoholic beverage, chemical substance set forth in Section 877.111 F.S., or any substance controlled under chapter 893 F.S.; or~~
- ~~(4) Whenever the employees of a Beach Service, or of any agent or independent contractor or sub-contractor, et cetera, of the Beach Service, engaged in Beach Commerce at that location shall have been issued six (6) citations for violations of this chapter or federal or state law pertaining to watercraft within one (1) calendar year and subsequently been found guilty, or pled guilty or nolo contendere (regardless of adjudication of guilt) to such citations.~~
- ~~(5) Whenever the operation of any rented watercraft permitted to be operated from that location contributes to the injury or death of any swimmer or operator of any watercraft, if any(3) Any act or omission of the Beach Service or of any agent, independent contractor or sub-contractor, et cetera, of the Beach Service, or an employee or agent of any of those, contributed in any way to such injury or death, the personal injury or death of any person caused in whole or in part by the operation of a Beach Amusement from that location; or~~
- ~~(6) Whenever any(4) Any activity conducted by any person whomsoever under the authority of the Beach Service's annual permit by any person whomsoever presentspresented an unusual or unreasonable danger to the public.~~
- ~~(i) Whenever operators of any rented watercraft permitted to be operated from that location shall have received from any law enforcement agency nine (9) citations within a calendar year for unlawful, reckless or dangerous operation of such watercraft, a rebuttable presumption shall arise that the Beach Service's operation at that location presents an unreasonable danger to the public, and the burden shall shift to the Beach Service to demonstrate to the Board, by clear and convincing evidence, that the majority of such citations resulted from circumstances beyond the control of the Beach Service and its agents, independent contractors, sub-contractors, et cetera.~~
- ~~(ii) Whenever all Shuttle Craft, parasail tow boats or watersled tow boats permitted to be operated from that location shall have received from any law enforcement agency an aggregate of (3) citations within a calendar year for unlawful, reckless or dangerous operation of all such watercraft, a rebuttable presumption shall arise that the Beach Service's operation at that location presents an unreasonable danger to the public, and the burden shall shift to the Beach Service to demonstrate to the Board, by clear and convincing evidence, that the majority of such citations resulted from circumstances beyond the control of the Beach Service and its~~

~~agents, independent contractors, sub-contractors, of cetera.~~

~~(b) — The In addition to the forgoing, the voluntarily payment of a Class 1 Infraction penalty or having been found responsible for a Class 1 Infraction resulting from one or more acts or omissions which also constitutes an offence under this section, shall be considered for the purpose of suspending or revoking a permit under this section an offence committed at the time any one or more of such acts or omissions occurred. For a first or second offense within one (1) calendar, the board shall not be authorized to suspend the permit.~~

~~For a third offence occurring within one (1) calendar year, the Board shall suspend the offender's permit for two consecutive (2) days. For a fourth offence occurring within that same calendar year, the Board shall suspend the offender's permit for five consecutive (5) days. For a fifth offense occurring within that same calendar year, the Board shall terminate the offender's annual permit.~~

~~(d) After notice and opportunity for hearing upon a complaint brought by the Police Department, the Water Safety Board shall revoke for cause any Owner-Operator's annual permit to conduct Limited Beach Commerce when the Owner-Operator shall have misrepresented by commission or omission any material fact in the application for the permit.~~

~~(e) After notice and opportunity for hearing upon a complaint brought by the Police Department, the Water Safety Board shall suspend or revoke for cause any Owner-Operator's annual permit to conduct Limited Beach Commerce at a particular location for three or more of any of the following offenses committed within one (1) calendar year:~~

~~(1) The Owner-Operator or any employee, agent or independent contractor or subcontractor, et cetera, of the Owner-Operator, or an employee or agent of any of those, in the course of offering or providing any type of Limited Beach Commerce under the authority of the Owner-Operator's permit, shall have failed to fulfill or cause to be fulfilled any one of the obligations imposed by this chapter on the Owner-Operator or such other person; or~~

~~(2) The Owner Operator, if a natural person, or an employee or agent of the Owner-Operator or of an independent contractor or subcontractor, et cetera, of the Owner Operator, in the course of offering or providing any type of Beach Commerce under the authority of the Owner-Operator's permit consumes or is under the influence of any alcoholic beverage, chemical substance set forth in Section 877.111 F.S., or any substance controlled under chapter 893 F.S.; or~~

~~(3) Any activity conducted by any person whomsoever under the authority of the Owner-Operator's permit presented an unusual or unreasonable danger to the public.~~

~~In addition, the voluntarily payment of a Class 1 Infraction penalty or having been found responsible for (regardless of adjudication of guilt) a Class 1 Infraction resulting from one or more acts or omissions which also constitutes an offence under this section, shall be considered for the purpose of suspending or revoking a permit under this section an offence committed at the time any one or more of such acts or omissions occurred.~~

For a first or second offense within one (1) calendar year, the Board shall not be authorized to suspend the Owner-Operator's permit.

For a third offence occurring within any period of one (1) calendar year, the Board shall suspend the offender's permit for two consecutive (2) days. For a fourth offence occurring within that same calendar year, the Board shall suspend the offender's permit for five consecutive (5) days. For a fifth offense occurring within that same calendar year, the Board shall terminate the offender's annual permit.

~~(f) After notice and opportunity for hearing upon a complaint brought by the Police Department, the Water Safety Board shall revoke for cause any person's annual certificate of compliance required by this chapter, if one (1) or more of when the following grounds person shall exist:~~

~~(1) Misrepresentation of have misrepresented by commission or omission any material fact in the application for the certificate.~~

~~(2) In the event (g) After notice and opportunity for hearing upon a complaint brought by the Police Department, the Water Safety Board shall suspend for cause any person's annual certificate of compliance required by this chapter when (i) such person shall have actual knowledge or be on inquiry notice of a failure by any person to fulfill or cause to be fulfilled any one of the obligations imposed by this chapter on any person offering or providing any type of Beach Commerce pursuant to any permit issued to a Beach Service listing such person as one who will participate in the Control or Management of that Beach Service, and (ii) such person shall have neither taken immediate and effective measures to stop such failure nor immediately reported such failure to the police department. The Board shall suspend the certificate of compliance for two (2) days for a first violation of this sub-section, five (5) days for a second violation within one (1) calendar year, and fifteen (15) days for a third and each subsequent violation within one (1) calendar year. This section, alone or in conjunction with any other section in this article, shall not be construed to impose a penalty upon any person for failure to incriminate himself or herself.~~

~~(e) The Water Safety Board shall revoke or suspend any Owner Operator's certificate of compliance required by this chapter, if one (1) or more of the following grounds shall exist:~~

~~(1) Misrepresentation of any material fact in the application for the certificate.~~

~~(2) In the event (i) such Owner Operator, if a natural person, or any person in the Control or Management of the Owner Operator, shall have actual knowledge or be on inquiry notice of a failure by any person to fulfill or cause to be fulfilled any one of the obligations imposed by this chapter on any person offering or providing any type of Beach Commerce behind or at the Beach Business for which such Owner Operator's certificate was issued, and (ii) such Owner Operator, if a natural person, or such person in the Control or Management of the Owner Operator shall have neither taken immediate and effective measures to stop such failure nor immediately reported such failure to the police department.~~

~~(3) Whenever the Owner Operator or the employees of the Owner Operator, or of any agent or independent contractor or subcontractor, et cetera, of the Owner Operator, while engaged in Limited Beach Commerce behind or at the Beach Business for which such Owner Operator's certificate was issued, shall~~

~~while on duty, consume, take or be under the influence of any alcoholic beverage, chemical substance set forth in Section 877.111 F.S., or any substance controlled under Chapter 893 F.S.~~

- ~~(4) Whenever the Owner-Operator, or the employees of the Owner-Operator, or of any agent or independent contractor or subcontractor, *et cetera*, of the Owner-Operator, engaged in Limited Beach Commerce behind or at the Beach Business for which such Owner-Operator's certificate was issued, shall have been issued six (6) citations for violations of this chapter within one (1) calendar year and subsequently been found guilty, or pled guilty or *nolo contendere* (regardless of adjudication of guilt) to such citations.~~
- ~~(5) Whenever any activity conducted by any person whomsoever under the authority of the Owner-Operator's certificate of compliance presents an unusual or unreasonable danger to the public.~~
- ~~(d) The Board shall at a minimum suspend the permit or certificate of compliance for not less than thirty (30) days for a first offense, and for repeated offenses of the same or another violation, may suspend the permit or certificate of compliance for a longer period or cancel and revoke it.~~
- ~~(eh) Any time the Chief of Police or his assistants shall ascertain that any of the grounds for have probable cause to believe that any facts exist which ultimately could lead to revocation or suspension of a permit or there is filed with the police department the complaint of any person alleging the existence of any such grounds compliance, it shall be his or their duty to make a full, fact-gathering investigation and investigate and if they find that such facts do exist, file with the Water Safety Board a written report thereof, together with a statement City Clerk, as to the existence of probable cause for suspension or revocation, and if the Board ascertains that such probable cause exists, the Board shall conduct a hearing thereon, after notice.~~
- ~~(f) At any time the report of the chief of police or his assistants shall show the existence of probable cause for suspension or revocation, the chief of police or his assistants shall Clerk of the Water Safety Board, and serve, as provided in FS 48.031 et seq, upon the alleged violator a notice of the alleged grounds for suspension or revocation and of the time, and upon any potentially affected Beach Service or Owner-Operator known to the City, a complaint specifying the charge and the penalty sought and informing the respondents that the charge will be heard by the Board on a date and place of a hearing before the Board thereupon. The notice shall be served not less time certain which shall be as soon as the Board may conveniently meet but no sooner than ten (10) nor more than thirty (30) days prior to such hearing. The alleged violator shall have the right days after delivery of the notice. The notice served shall include a copy of this chapter and state that if the respondents fail to appear at the the charge will be deemed admitted for all purposes by all persons. The notice shall also state whether the complaint is the alleged violator's first, second, third, fourth or fifth offense that calendar year and offer the violator the opportunity to plead guilty without a hearing, be represented by counsel, produce.~~
- ~~(i) Unless the violator pleads guilty, a hearing shall be held on every complaint regardless of whether the board may suspend or revoke a permit or a certificate of compliance at the conclusion of that hearing. At the hearing, the Police Department (one party) and the~~

party(s) charged and affected or such parties severally, shall be entitled to present evidence and cross-examine witnesses. The chief of police or his assistant. The Board is authorized to issue upon request of a party subpoenas to compel the attendance of witnesses. Witnesses shall testify under oath. No discovery shall be had. Either party may be represented in the hearing by an attorney-at-law. A corporation or other fictitious person may be represented by a duly authorized officer or manager. The Police Department shall carry the burden of establishing by greater weight of the evidence that suspension or revocation is required. The factual basis for the charge and shall present its case first. The Police Department may rebut the defense. The Police Department shall present its closing argument first, the defense shall be entitled to argue last. The Board may receive legal argument from the parties and advice from its own legal counsel, but shall make its own conclusions of applicable law. The Board shall make findings of fact based upon evidence and stipulations presented in the hearing. The hearing shall be conducted by the Board chairman or a hearing officer selected by the Board. The hearing shall be conducted in a manner to provide the affected party due all parties a fair process and the decision of the Board shall be contingent upon evidence and argument presented at the hearing to challenge the factual basis or conclusions of law supporting the charge. The rules of evidence shall not apply and any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons rely in the conduct of serious affairs. A record of the hearing shall be made by electronic recording or otherwise.

- ~~(g) If, after the hearing, the Water Safety Board shall determine that one (1) or more of the noticed grounds for suspension or revocation exist, it shall enter The procedural history, findings of fact, conclusions of law and ultimate decision of the Board shall be expressed in a written order signed by the chairman suspending or revoking the certificate of compliance of the violator. Such order shall, at a minimum, contain the following:~~
- ~~(1) A clear statement of the violations charged;~~
 - ~~(2) which shall be final. A clear statement of the factual basis for the charges;~~
 - ~~(3) Evidence that the violator was given notice of the charges, and of an opportunity to appear and present evidence and testimony regarding the charges;~~
 - ~~(4) Findings of fact made party aggrieved by the Board; order may seek relief by certiorari in the Circuit Court for Bay County, Florida, as provided by state law.~~
 - ~~(5) Conclusions of law which demonstrate that the facts alleged constitute violations.)
Reserved.~~
- (k) Any person aggrieved by an administrative interpretation of this chapter or applicable law by the City Manager, the Chief of Police or one of their subordinates may appeal in writing to the Board by written notice of appeal filed with the City Clerk within ten (10) days of the action appealed.
- (l) When an appeal from an administrative interpretation of this chapter is filed the Board shall within (10) days or as soon thereafter as may be practicable conduct a hearing at which the City and the aggrieved party shall be entitled to present evidence and cross-examine witnesses. The Board is authorized to issue upon request of a party subpoenas to compel the attendance of witnesses. Witnesses shall testify under oath. No discovery shall be had. Either party may be

represented in the hearing by an attorney-at-law. A corporation of other fictitious person may be represented by a duly authorized officer or manager. The City shall carry the burden of establishing by logic and where applicable by competent, substantial evidence that the interpretation from which appeal is taken is reasonable. To prevail, the appellant must convince the board that there is no reasonable logic and, where relevant, no competent, substantial evidence supporting the interpretation and, therefore, the administrative interpretation is arbitrary and capricious. The City shall open the hearing and may rebut the appellant, but the appellant shall be entitled to close. The Board may receive legal argument from the parties and advice from its own legal counsel, but shall make its own conclusions of applicable law. The Board shall make findings of fact based upon evidence and stipulations presented in the hearing. The hearing shall be conducted by the Board chairman or a hearing officer selected by the Board. The hearing shall be conducted in a manner to provide all parties a fair process to challenge the factual basis or conclusions of law supporting the interpretation.. The rules of evidence shall not apply and any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons rely in the conduct of serious affairs. A record of the hearing shall be made by electronic recording or otherwise. ~~(6) A statement of the penalty imposed against the violator's permit or certificate of compliance.~~

~~(7) A clear statement informing the violator of the right to appeal the action~~ The procedural history, findings of fact, conclusions of law and ultimate decision of the Board shall be expressed in a written order which shall be final. A party aggrieved by the order may seek relief by certiorari in the Circuit Court for Bay County, Florida, as provided by state law.

~~(m) An order of the Board-~~

~~(h) Any order~~ suspending or revoking a permit or certificate of compliance may also assess against such violator or the associated Beach Service or Owner-Operator, or both severally, the reasonable investigative and legal costs for the prosecution of the violation which shall bear interest at the rate provided for ~~judgements~~ judgments in the circuit court and may be enforced as provided by law.

~~(in)~~ Regardless of the term of any such suspension stated in the order, the suspension shall continue until all investigative and legal costs assessed against the violator plus interest ~~are~~ is paid in full. _____

~~(j) Any person aggrieved by the action of the Water Safety Board in revoking or suspending any permit or certificate of compliance issued pursuant to this chapter, may appeal to the City Council. Any such appeal shall be taken within ten (10) days from the date of the action complained of by filing with the Board and with the City Council a notice of appeal, specifying the grounds thereof. Upon notice of appeal filed with the Board, the Board shall forthwith transmit to the City Council papers constituting the record upon which the action appealed from was taken. The aggrieved party shall be entitled to seek review of the final decision of the council by certiorari in the Circuit Court for Bay County, Florida.~~

Secs. 7-77--7-79. Reserved.

ARTICLE V. BEACH SOLICITATION, SALES AND RENTALS

Sec. 7-80. Soliciting, canvassing, selling, and renting on beach prohibited; definition--Generally.

- (a) No person shall sell or rent, or solicit or canvass for the sale or rental of merchandise, services, goods, or property of any kind or character, in, upon or from the sand beach areas between the waters of the Gulf of Mexico and the Coastal Construction Control Line established by the State Department of Natural Resources.
- (b) The term "*solicit or canvass*," as used in this section and sections 7-81 through 7-83, shall include any act, delivery or exchange not initiated by the prospective customer, which directs attention to any business, mercantile or commercial establishment, or any other commercial activity, for the purpose of directly or indirectly promoting commercial interests through sales, rentals or any exchange of value.
- (c) Violation of this section shall be punishable as a Class 2 Infraction as provided in Section 7-502.

Sec. 7-81. Same--Exemption of certain goods and services; purpose.

- (a) The prohibition contained in section 7-80 shall not apply to the immediate sale or rental within a booth or stall, or soliciting or canvassing from within a booth or stall, for the immediate sale or rental of the following goods or services in and from such sand beach areas:
 - (1) Umbrellas;
 - (2) Chairs;
 - (3) Cabanas;
 - (4) Personal Watercrafts;
 - (5) Hobie Cats, Sunfish, Prindles and similar sailboats;
 - (6) Sailboards (but not Kite-Boards);
 - (7) Kayaks, Canoes and similar hand paddled boats;
 - (8) Watercycles;
 - (9) Floats and surfboards;
 - (10) Parasail Rides, Kite Rides and Watersled Rides;
 - (11) Sun protective oils and creams.
 - (12) Beach Photography, including photographs subsequently purchased and delivered off the beach.
- (b) As used in this section, the term "*booth or stall*" shall mean an immobile structure or partial enclosure on the sand beach not exceeding fifty (50) square feet of gross horizontal

space.

- (c) The purpose of these exemptions is to reasonably permit the solicitation and immediate sale or rental of certain goods and services which serve a public need in the sand beach areas and are not themselves a nuisance or detriment, without unreasonably interfering with the flow, recreation, enjoyment and privacy of persons otherwise upon the sand beach areas.
- (d) The goods permitted by this ordinance to be placed upon the beach for rental or sale shall not be displayed, or stored or placed within thirty (30) feet landward of the primary wrack line or, if there be no primary wrack line, the scarf line or landward edge of the "wet sand" so as to avoid being an obstacle to emergency and other permitted vehicles.

Sec. 7-82. Same--Exception for booths and stalls; definition; purpose.

- (a) The prohibition contained in section 7-80 shall not apply to persons soliciting or canvassing from within a booth or stall, for the sale or rental of any merchandise, services, goods, or property of any kind or character to be delivered or performed off such sand beach areas.
- (b) As used in this section, the term "booth or stall" shall mean an immobile structure or partial enclosure on the sand beach not exceeding fifty (50) square feet of gross horizontal space.
- (c) The purpose of requiring a booth or stall is to reasonably permit commercial speech relating to goods and services not directly serving a public need in the sand beach area, without unreasonably interfering with the flow, recreation, enjoyment and privacy of persons otherwise upon the sand beach areas.

Sec. 7-83. Soliciting, canvassing on City property prohibited; exception.

- (a) No person shall solicit or canvass for the sale or rental of merchandise; services, goods or property of any kind or character in and from any lands or pier owned or leased by the City, including park and beach lands.
- (b) The prohibition contained in subsection (a) shall not apply to a tenant, concessionaire or licensee of the City lawfully operating within the terms of any lease, concession agreement or license granted by the City.
- (c) Violation of this section shall be punishable as a Class 2 Infraction as provided in Section 7-502.

Secs. 7-84--7-100. Reserved.

ARTICLE VI. DRIVING ON THE BEACH

Sec. 7-101. Driving on beach prohibited.

- (a) It shall be unlawful for any person to operate a motor vehicle, except as provided in

Section 7-102 below, in or upon the sand beach areas between the waters of the Gulf of Mexico and the coastal construction control line established by the State Department of Natural Resources.

- (b) It shall be unlawful for any owner or person entitled to control of a motor vehicle to knowingly permit the operation of that motor vehicle in violation of this Article.
- (c) As used herein, the term "vehicle" shall mean that in or on which a person or thing is or may be carried from one place to another, especially along the ground, but also through the air; any carriage moving on land, either on wheels or runners or a cushion of air; that which is used as an instrument of conveyance on land.
- (d) Violation of this section shall be punishable as a Class 1 Infraction as provided in Section 7-501.

Sec. 7-102. Exceptions.

The prohibition contained in Section 7-101 shall not apply to:

- (a) A work vehicle as defined in Section 7-104 operated between sunrise and sunset, Monday through Friday, from the first Monday after Labor Day through the last day in February of each year, provided such work vehicle is operated for the sole purpose of transporting beach boxes, chairs, umbrellas and similar stationary equipment approved by the Chief of Police or his designee, but excluding personal and other motor driven vessels, provided beach access is gained through the nearest established and properly identified public access route which directly connects the paved highway with the Gulf of Mexico.
- (b) A work vehicle as defined in Section 7-104 operated between sunrise and sunset, on Monday, Tuesday or Wednesday between the first Monday of March through the first Wednesday of May of each year, provided such work vehicle is operated for the sole purpose of transporting beach boxes, chairs, umbrellas and similar stationary equipment approved by the Chief of Police or his designee, but excluding personal and other motor driven vessels, provided beach access is gained through the nearest established and properly identified public access route which directly connects the paved highway with the Gulf of Mexico;
- (c) A work vehicle as defined in Section 7-104 operated between sunrise and 10:00 a.m., or between 4:00 p.m. and sunset during the months of March through September provided such work vehicle is operated for the sole purpose of servicing, repairing or replacing broken stationary equipment and water sports vehicles, provided beach access is gained through the nearest established and properly identified public access route which directly connects the paved highway with the Gulf of Mexico; In addition, such a work vehicle otherwise lawfully upon the beach during the foregoing hours may also during these times move water sports vehicles to and from storage and other areas, provided such use is entirely within the boundaries of the property on which the business for which the vehicle was at that time providing service, repair or replacement is lawfully entitled to operate;

- (d) A work vehicle as defined in Section 7-104 operated between sunrise and 10:00 a.m., or between 4:00 p.m. and sunset, whose operation is limited solely to (i) that portion of an established and properly identified public access route which directly connects the paved highway with the Gulf of Mexico, or (ii) a turnaround area lying at the Gulf end of such route, adjacent to the water's edge, and not exceeding fifty (50) feet in diameter;
- (e) Permitted beach cleaning vehicles and equipment;
- (f) Wildlife monitoring vehicles operated at public expense;
- (g) Ambulances or other life rescue and law enforcement vehicles; and
- (h) Beach patrol vehicles operated at public expense.
- (i) A work vehicle consisting of a single passenger, all-terrain vehicle as defined in Section 7-104 used to move water sports vehicles to and from storage and maintenance areas, provided such use is entirely within the boundaries of the property on which the respective business is lawfully entitled to operate, provided that there shall be no more than one such vehicle operating within the boundaries of such property at any time.
- (j) A work vehicle consisting of a single passenger, all-terrain vehicle as defined in Section 7-104 operated between the hours of sunrise to 7:00 a.m. and between the hours of 5:00 p.m. and sunset to move water sports vehicles to and from the nearest established and properly identified public access route which directly connects the paved highway with the Gulf of Mexico; and
- (k) A handicapped vehicle operated for the sole purpose of transporting upon the sandy beach a person with an ambulatory disability which materially impairs his or her ability to walk on the sandy beach, provided such vehicle's weight shall not exceed 350 pounds, its length shall not exceed sixty (60) inches, its width shall not exceed thirty four (34) inches, its seating capacity shall not exceed two (2) persons, and its power source shall not enable the vehicle to achieve speeds in excess of six (6) miles per hour on level ground.
- (l) As a condition of enjoying the privilege of one of these exceptions, the driver of any vehicle being lawfully operated on the sand beach shall at all times use his or her best efforts to restrict their driving to a corridor one vehicle wide just below the line of continuous vegetation or, where there is no vegetation line, the building line, subject only to conditions and obstructions on the beach and the practical necessity of the work-related reason for the exception. It shall be unlawful and constitute a violation of this chapter for a driver to operate a vehicle outside such corridor without cause.

Nothing herein shall be construed to permit the operation of any vehicle on the beach in violation of any other applicable law.

Sec. 7-103. Special Permits.

- (a) *Business Emergency.* In case of a business emergency, the Chief of Police or his

designee may authorize a work vehicle to operate upon the sandy beach at any time if, after considering the location, congestion on the beach, surf conditions, and the nature of the emergency, (i) such operation can be limited solely to that portion of an established and properly identified public access route which directly connects the paved highway with the Gulf of Mexico and a turn around area lying at the Gulf end of such route, adjacent to the waters edge, not exceeding fifty (50) feet in diameter, or (ii) it is feasible, after giving consideration to other pending and likely demands upon police department resources, to provide a police escort to and from the emergency. A business emergency is an event which will likely result in an unreasonable financial hardship if access is denied, and could not have been reasonably foreseen or prevented by the business. For example, the unexpected mechanical failure of a personal water craft is a business emergency, unless such failure is a part of a pattern indicating substandard maintenance or emergency removal would not materially shorten down time.

- (b) *Memorial Day and 4th of July.* The Chief of Police or his designee may authorize a work vehicle to operate upon the sand beach between sunrise and sunset on no more than three (3) extra days prior to and three (3) extra days after Memorial Day and the 4th of July each year, provided that such vehicle is operated for the sole purpose of transporting beach boxes, chairs, umbrellas and similar stationary equipment approved by the Chief of Police or his designee, but excluding for example, without limitation, personal watercraft, and other motor driven vessels, provided beach access is gained through the nearest established and properly identified public access route which directly connects the paved highway with the Gulf of Mexico. In selecting each of those extra days, which need not be consecutive, the Chief of Police shall consider school and holiday schedules, weather and other factors, and select days on which he feels the beach will not be congested. The Chief of Police or his designee may also cancel at any time without prior notice any such extra day due to unexpected or excessive congestion on the beach, and no person shall have any claim or demand against the City on account of such cancellation; provided that no person shall be charged with violating this law on any such canceled day unless said person is given actual notice of the cancellation and a reasonable opportunity to comply but fails or refuses to do so.
- (c) *Weather Emergency.* In the event of an imminent weather emergency, the Chief of Police may permit any vehicle to operate on the beach to remove and protect persons and property.
- (d) *Construction Activities.* To facilitate construction on the sandy beach, the Chief of Police or his designee may authorize a work vehicle to operate upon the sandy beach at any time if, after considering the location, congestion on the beach, surf conditions, and the nature of the construction activity, such operation can be limited solely to that portion of an established and properly identified public access route which directly connects the paved highway with the Gulf of Mexico and a clear route along the waters edge to the construction site. Authorization under this section shall be evidenced by a temporary permit issued by the Chief or his designee, identifying the vehicle, the construction site, the access route, and specifying the expiration date and time. Such permit must be displayed upon the dashboard or right front window of the vehicle.
- (e) *Temporary Substitute Permits.* In the event of a mechanical failure of a vehicle lawfully permitted under this section, the Chief or his designee may issue a temporary permit for

an alternate vehicle, which permit shall identify the alternate vehicle, the name in which the original permit was issued, and specify the date and time such permit will expire. Such permit must be displayed upon the dashboard or right front window of the alternate vehicle. It shall be illegal for any person to utilize the original permit until either the alternate permit expires or is surrendered to the police department.

Sec. 7-104. Work vehicle permits.

- (a) As used herein, the term "*work vehicle*" shall mean a motorized vehicle not exceeding 8,000 pounds gross vehicle weight displaying a work vehicle permit, which permit shall expire December 31 of each year and shall be issued by the Police Department of the City of Panama City Beach upon an application containing the following information and accompanied by the following fee:
 - (1) A photograph and description of the vehicle and the name and address of the owner of the vehicle.
 - (2) The name, address and a brief description of the nature of the business in pursuit of which the vehicle will be used.
 - (3) The name and address of the owners of said business.
 - (4) A permit fee in the amount of one hundred dollars (\$100.00) for a vehicle designed for road use, or a permit fee in the amount of fifty dollars (\$50.00) for a smaller, off road all-terrain vehicle.
 - (5) Proof that applicant's vehicle is not in violation of § 320.38, F.S.
- (b) The number of vehicle permits issued to a single person or business operating a beach service or beach amusement shall be limited to the number of locations operated by such person or business, as follows:

TABLE INSET:

Number of Locations	Number of Vehicle Permits Allowed
1--4	1
5--8	2
9 or more	3

In addition, such person or business shall be entitled to permit one single passenger all-terrain vehicle per location, provided that (i) such vehicle is operated on the beach exclusively at that location, and (ii) that location is omitted from the above calculation.

- (c) The work vehicle permit assigned to any vehicle operated in violation of this section shall be immediately revoked by the Chief of Police. Appeals from a revocation by the Chief of Police may be made to the City Council at its next regular meeting.

(d) The work vehicle permit assigned shall be affixed to the right rear panel of the vehicle to which shall also be affixed the name of the business operating the vehicle and a unique, two-digit vehicle number for that vehicle and business. The name and number shall be in clearly legible block lettering no less than four (4) inches high.

Secs. 7-105--7-109. Reserved.

ARTICLE VII. BEACH LIGHTING

Sec. 7-110. Purpose and intent.

The purpose of this article is to reduce the potential impact of artificial coastal lighting on marine turtles that nest on the greater Panama City beaches by restricting artificial lighting that may disorient marine turtle hatchlings, causing them to crawl toward land rather than toward the Gulf. This law is intended to provide overall

improvements in nesting habitat degraded by light pollution, increase successful production of hatchlings and increase the number of marine turtles without jeopardizing public safety or the security of persons or property. In addition, it is the intent of this article to minimize increases in light on the beach which may be caused by widening and raising the beach through beach renourishment. The City finds, as the State of Florida has found, that renourishment is of exceptional importance and of great public benefit, and also finds nourishment of the Panama City beaches to be of benefit to marine turtles.

Sec. 7-111. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Artificial light source or point source means any fixed, point or linear source of light emanating from a glowing element, glowing gas, or light emitting diode (LED) (e.g. the lamp or bulb of an artificial light source).

Beach means that area of unconsolidated material that extends landward from the mean low-water line of the Gulf of Mexico, to the frontal dune or where there is no frontal dune to the line of permanent vegetation or construction whichever is more seaward.

Beachfront means that portion of the following described area lying within the municipal boundaries of the City, to wit,

Starting west to east:

Pinnacle Port: The most seaward of either the seaward boundary of the right of way of Alt. US Highway 98 (herein Front Beach Road) or the CCCL.

Carillon: The seaward boundary of Beachside Drive (Note: CCCL less than 300 ft., Beachside Drive more landward than CCCL)

Ramsgate to west boundary of City: The most seaward of either Front Beach Road or the CCCL.

West boundary of City to South Thomas Drive: The most seaward of either Front Beach Road or the CCCL.

South Thomas Drive to east boundary of City: The most seaward of the CCCL or the seaward boundary of the right of way of either South Thomas Drive or Thomas Drive, as applicable.

East Boundary of City to Spyglass Drive: The most seaward of the CCCL or the seaward boundary of the right of way of either Surf Drive or Gulf Drive, as applicable..

Spyglass Drive to St Andrew State Park boundary: The CCCL (Spyglass Drive would be less than 300 ft. here).

Bug Lamp means any yellow colored light bulb that is specifically treated in such a way so as to reduce the attraction of bugs to the light, but does not include bug killing devices.

Coastal Construction Control Line (CCCL) means the line established by the State of Florida pursuant to section 161.053, Florida Statutes, and filed in the public records of Bay County, which defines that portion of the beach dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Comprehensive flood light means an artificial light source and fixture positioned above the exterior premises or grounds of a hotel or condominium and specifically designed to illuminate the exterior premises or grounds in lieu of multiple, traditional light sources such as balcony lights, deck lights, walkway lights, breezeway lights, et cetera. The absence in the design and construction of an existing development of such traditional light sources capable of safely illuminating an area improved for human occupancy is indispensable to a finding that a particular light is a "comprehensive flood light."

Disconnected means the complete separation of a light fixture from its energy source by a key-locked device with the key separately secured, or similar means other than merely an operating switch, valve or service disconnect.

Exterior means not located within an enclosed, heated and cooled space of a structure.

Existing development means structures existing on the effective date of this law or development for which an essentially complete application for issuance of a building permit has been submitted to City prior to the effective date of this law.

Frontal dune means the first natural or manmade mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity and configuration to offer storm protective value.

Good faith means having an open mind and sincere desire to achieve the intent of this law: it is a matter of intent and a state of mind which usually can be determined only by inference from a party's conduct.

Illuminate means to make bright with light, to bath in light, or to light up artificially with brilliant lights.

In use means operable and also includes temporary periods of maintenance or replacement.

Light fixture means the housing of an artificial light source.

Line-of-sight from the beach or *visible from the beach* means capable of being observed by a pedestrian walking or standing on the beach.

Marine turtle means any marine-dwelling reptile of the families *Cheloniidae* or *Dermochelyidae* found in Florida waters or using the beach as a nesting habitat, including the species: *Caretta caretta* (loggerhead), *Chelonia mydas* (green), *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), and *Lepidochelys kemp* (Kemp's ridley). For purposes of this section, marine turtle is synonymous with sea turtle.

Nesting season means the period from May 1 through October 31 of each year, from 9:00 P.M. until 5:00 A.M. daily.

New development means the result of new construction, or of the remodeling, renovation, redevelopment, repair or replacement of an existing structure when the cost of such remodeling, renovation, redevelopment, repair or replacement without consideration of any additional costs associated with meeting the turtle-friendly lighting and tinted window standards established for new development by this law (regardless of the reason for such work) exceeds fifty percent (50%) of the replacement cost of the structure at the time work is commenced, for which an essentially complete application for issuance of a building permit has been submitted to the City on or after the effective date of this law.

New exterior light fixture means an exterior light fixture, regardless of age, installed in a new location and not replacing a pre-existing fixture at materially the same location.

New window or *new door* means an exterior window or door, regardless of age, installed in a new location and not replacing a pre-existing window or door at materially the same location.

New lighted sign means an exterior lighted sign, regardless of age, installed in a new location and not replacing a pre-existing lighted sign at materially the same location.

Point source of light, see "artificial light source."

Tinted glass means any glass tinted (including adhered film) to achieve an industry-approved inside-to-outside light transmittal value of forty-five (45) percent or less. Such transmittance is limited to the visible spectrum (four hundred (400) to seven hundred (700) nanometers) and is measured as the percentage of light that is transmitted through the glass.

Turtle light fixture means a light fixture in which the artificial light source is contained within a full cut-off or fully shielded housing or structure such that no light is broadcast above a horizontal plane.

Turtle lamp means low pressure sodium vapor lamps, incandescent bug lamps, 11 watt compact fluorescent bug lamps, "turtle safe lighting" ("TSL") sleeved fluorescent

lamps, TSL coated compact fluorescent lamps, amber and red light emitting diodes, true red neon lamps, other lamps certified by Florida Fish and Wildlife Conservation Commission as "Wildlife Lighting (found at <http://myfwc.com/seaturtle/index.htm>), lights approved by the Florida Department of Environmental Protection, and other artificial light sources emitting predominately long-wavelength light (570 or greater nanometers which are in the yellow, orange or red light spectrum).

Visible from the beach or in line-of-sight from the beach means capable of being observed by a pedestrian walking or standing on the beach.

Sec. 7-112. Prohibited lighting disruptive to marine turtles.

- (a) *Lighting standards for new development.* Each owner, operator and person entitled to operate beachfront new development shall cause such development to comply with the following:
- (1) Each exterior light fixture on the beachfront where the point source of light is visible from the beach shall be either (i) a turtle light fixture mounted as low as practicable for its intended application and containing only one or more turtle lamps, or (ii) disconnected at all times during marine turtle nesting season.
 - (2) Each exterior light fixture on the beachfront and not in line-of-sight from the beach but which causes light to be reflected off a surface which is visible from the beach shall be either (i) a turtle light fixture, or (ii) disconnected at all times during marine turtle nesting season.
 - (3) Notwithstanding the foregoing, parking lot or vehicle access area light fixtures on the beachfront and which are in line-of-sight from the beach may use turtle light fixtures with low pressure sodium lamps, provided that additional shielding is installed if the point source is visible from the beach so that the point source is not visible from the beach.
 - (4) Tinted glass shall be installed on all windows and glass doors on the beachfront and which are in line-of-sight from the beach.
 - (5) All lighted signs on the beachfront and which are in line-of-sight from the beach shall be externally illuminated from above (downward) with full cut-off fixtures.
 - (6) Should the light fixtures practically permitted by this sub-section 7-112 (a) (lighting standards for new development) provide illumination of areas improved for human occupancy which is insufficient to comply with applicable law or to meet a duty of care for the safety or security of persons or property recognized by statute, regulation or common law, including but not limited to the Florida Department of Health or the Florida Building Code regulations for lighting swimming pools and water features or the safe lighting standards for the applicable property use as published in the IES Lighting Handbook by the Illuminating Engineering Society of North America, then turtle light fixtures with any lamps (or if turtle light fixtures are impracticable to meet safety and security requirements other fixtures with any lamps) positioned to minimize illumination of the beach, including but not limited to high pressure sodium or metal halide lamps, may be used to comply with or meet,

but not exceed, the minimum average maintained illumination required by such law or duty.

- (7) In addition to the foregoing mandatory requirements, in order to minimize light emanating from interior spaces, voluntary compliance with one or more of the following is recommended: (i) install and use window treatments (shades, blinds, etc.) to shield interior lights from the beach at night during marine turtle nesting, (ii) rearrange lamps and other moveable light fixtures away from windows, and (iii) turn off unnecessary lights.
- (b) *Lighting standards for existing development.* Each owner, operator and person entitled to operate beachfront existing development shall cause such development to comply with the following:
- (1) Each new exterior light fixture on the beachfront which is added to existing development after the effective date of this law and which is either in line-of-sight of the beach or which causes light to be reflected off a surface which is visible from the Beach shall comply with sub-section 7-112 (a) above, unless such new fixture is permitted by sub-section 7-112 (b) (10) below.
 - (2) Each exterior light fixture on the beachfront where the point source of light is visible from the beach (except a comprehensive floodlight) shall be repositioned, modified, or removed so that the point source is not visible from the beach, or replaced with or modified to become a turtle light fixture containing only one or more turtle lamps, upon replacement of such fixture but no later than May 1, 2013, or removed by that date. In lieu of compliance with this sub-section, such fixture or its replacement may be disconnected at all times during marine turtle nesting season.
 - (3) Each exterior light fixture on the Beachfront and not in line-of-sight from the beach (except a comprehensive floodlight) but which causes light to be reflected off a surface visible from the beach shall be replaced with or modified to become a turtle light fixture upon replacement of such fixture but no later than May 1, 2013, or removed by that date. In lieu of compliance with this sub-section, such fixture or its replacement may be disconnected at all times during marine turtle nesting season.
 - e) Notwithstanding the foregoing, parking lot or vehicle access area light fixtures on the beachfront and which are in line-of-sight from the beach may use turtle light fixtures with low pressure sodium lamps, provided that additional shielding is installed if the point source is visible from the beach in order to minimize that visibility.
 - (5) On or before May 1, 2010, each comprehensive floodlight on the beachfront and in line-of-sight of the beach shall be (i) removed, or (ii) replaced with turtle light fixtures containing only one or more turtle lamps, or (iii) shielded, positioned, modified or replaced so as to make the point source not visible from the beach. In lieu of compliance with this sub-section, such fixture or its replacement may be disconnected at all times during marine turtle nesting season. Notwithstanding the foregoing, where such floodlight has been shielded and positioned as much as practicable (including replacement of the fixture if necessary in order to better

shield or reposition it) in a good faith effort to make the point source not visible from the beach while still allowing the fixture to fulfill its function, but the height of the fixture has frustrated that effort, the fixture shall be deemed in compliance with this subsection if its light falls predominately off the beach.

- (6) New windows and new glass doors on the beachfront and which are in line-of-sight from the beach for which permit application is made or materially completed after the effective date of this law shall comply with sub-section 7-112 (a) above.
- (7) All lighted signs on the beachfront and which are in line-of-sight from the beach that are replaced or retrofitted as part of new development shall be externally illuminated from above (downward) with full cut-off fixtures.
- (8) New lighted signs on the beachfront and which are in line-of-sight from the beach for which permit application is made or materially completed after the effective date of this law shall comply with sub-section 7-112 (a) above.
- (9) Existing development which becomes new development shall comply with the requirements of sub-section 7-112 (a) above.
- (10) Should compliance with this section 7-112 (b) (lighting standards for existing development) reduce illumination of areas improved for human occupancy which is insufficient to comply with applicable law or to meet a duty of care for the safety or security of persons or property recognized by statute, regulation or common law, including but not limited to the Florida Department of Health or the Florida Building Code regulations for lighting swimming pools and water features or the safe lighting standards for the applicable property use as published in the IES Lighting Handbook by the Illuminating Engineering Society of North America, then turtle light fixtures with any lamps (or if turtle light fixtures are impracticable due to existing conditions, other fixtures with any lamps) positioned to minimize illumination of the beach may be used to comply with or meet, but not exceed, the minimum average maintained illumination required by such law or duty.
- (11) In addition to the foregoing mandatory requirements, in order to minimize light emanating from interior spaces, voluntary compliance with one or more of the following is recommended: (i) install tinted glass on all windows and glass doors in line-of-sight from the beach, (ii) install and use window treatments (shades, blinds, etc.) to shield interior lights from the beach at night during marine turtle nesting, (iii) rearrange lamps and other moveable light fixtures away from windows, and (iv) turn off unnecessary lights.

(c) *Exemptions.*

- (1) If otherwise allowed by applicable state or federal permits, temporary security and safety lights at active construction sites shall be permitted provided they are not mounted more than fifteen (15) feet above the ground, or higher where required by law. Illumination from the lights shall be the minimum necessary to assure security and safety or as required by the Occupational Safety and Health Administration (OSHA), shall only illuminate the construction area and shall not illuminate the beach.

- (2) Lighting approved by the Florida Department of Environmental Protection as part of a permit to construct improvements seaward of the CCCL shall be exempt from the provisions of this law.
- (3) Lighting not meeting the provisions of this chapter shall be authorized at any time during a period of emergency.

Sec. 7-113. Federal endangered species act.

Nothing in this article shall be construed to authorize, license or permit any lighting or other act or condition in violation of the federal Endangered Species Act. Artificial lighting not prohibited by this law which may be in violation of the federal Endangered Species Act may be reported to the United States Department of Interior, Fish and Wildlife Service, for resolution and enforcement under federal law.

The sole purpose of this law is to protect marine turtles from beachfront light pollution, without jeopardizing public safety and security, as determined by the City in the legislative exercise of its home rule powers under the constitution and laws of the State of Florida. This legislation is adopted solely to achieve the public purposes first above described as found and determined by the City in the exercise of its legislative discretion. This law is the free and voluntary legislative act of the people of the City of Panama City Beach, Florida, acting by and through their duly elected City Council as authorized but not required by the constitution and laws of the State of Florida. The City finds that this law and the public policy implemented by this law, namely attempting to protect marine turtles by mandatory mitigation of beachfront lighting, are not required by the federal Endangered Species Act because the City plays no role in any causal connection that may exist between beachfront lighting and potential harm to marine turtles. Moreover, such a requirement to enact local legislation would exceed the limited grant of federal power over the several states of the union.

The City does not presently regulate or permit exterior lighting. The City does not prohibit exterior lighting and then permit only specified classes of exterior lighting. Except for the limited restrictions imposed by this law solely for the potential benefit of marine turtles, the City does not intend to regulate exterior lighting. The City finds that placement and use of exterior lighting is essentially a lawful activity not regulated by local law. In addition, the City is preempted from adopting any building code. In 1998, the Florida Legislature amended Chapter 553, *Florida Statutes*, Building Construction Standards, to create a single, state building code that is enforced by all local governments, including the City. As of March 1, 2002, the *Florida Building Code*, which is developed and maintained by the Florida Building Commission, supersedes all local building codes. The public policy decisions forming the basis of the Florida Building Code as implemented in the City of Panama City Beach are made solely by the state legislature and the Florida Building Commission, not the City.

Moreover, any effect that the applicable building code may have upon exterior lighting is purely incidental and ancillary to the primary purpose of the Florida Building Code. As stated in Section 101.3 of the *Florida Building Code* "The purpose of this Code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency

operations."

Sec. 7-114. Administration.

- (a) This law shall be administered by the Director of Building and Planning who shall make all administrative decisions, interpretations and determinations.
- (b) This law shall be enforced by a Code Inspector pursuant to Chapter 25 of the Code of Ordinances of the City, as amended from time to time ("Chapter 25"). Any violation of this ordinance by an owner, operator or person entitled to operate beachfront development shall constitute a civil offense punishable by civil penalty in the amount and pursuant to the penalties and the remedies, both in rem and in personam, prescribed or authorized in Chapter 25. As provided in Chapter 25, any person or entity creating or permitting a violation of this law shall be subject to personal liability for civil penalties. Each day that such a violation shall occur after notice and a reasonable time for correction shall constitute a separate administrative offense. Appeal of the interpretation or application of any technical provision of this law related to a code enforcement action initiated by the City shall be made to the Planning Board pursuant to the procedures specified in Section 10.16.00 of the City's Land Development Code, as amended from time to time. Failure to file such an appeal prior to commencement of a factual hearing before a Chapter 25 Hearing Officer shall waive any objection to such interpretation or application. After a factual issue has been determined by a Chapter 25 Hearing Officer, the matter shall not be further reviewed by the Planning Board in that case. Notwithstanding the provisions of Chapter 25, where correction of a violation within the time specified in the notice of correction mentioned above or within the maximum time specified under Chapter 25, as applicable, is not practical, the reasonable time period within which the violator must correct the violation may be extended beyond such noticed time or maximum time, provided that material efforts toward correction are commenced within the noticed time or maximum time, as appropriate, and diligently pursued to successful completion.
- (c) Alternatively, or upon conclusion of a proceeding under sub-paragraph (b) above, upon verification by the Director of Building and Planning or his designee that any of the provisions of this ordinance are being violated, the Building Department may notify in writing any one or more of the owner, operator and person entitled to operate the offending development, stating the provisions of this law being violated, and ordering the necessary steps to abate the violation within a reasonable time. If the violation is not abated or, where abatement cannot be accomplished practically within the time specified, good-faith efforts to abate are not commenced within the time specified in such notice and diligently pursued to successful completion, the Director of Building and Planning, through the city attorney, may institute any appropriate action or procedure to bring about compliance with any of the provisions of this law, including an action for injunctive relief. The City shall have the burden of proof to demonstrate by a greater weight of the evidence that this law is being violated. In any subsequent enforcement action, all parties to the action and their successors in interest shall be bound by all factual matters finally determined, including any determinations in appeals allowed by law.
- (d) Any owner, operator or person entitled to operate property subject to this law may apply to the Director of Building and Planning for a determination of whether any fixture, lamp or circumstance is or will be in compliance with this law. The form of such application shall be

established from time to time by the City Manager. Each such application shall be accompanied by an application fee to be established from time to time by the City Manager in an amount materially equal to the anticipated cost of processing the application. No enforcement action shall be taken against and no penalty shall be imposed upon an owner, operator or person entitled to operate the subject development that submits such an application and complies with the final, administrative determination within sixty (60) days after such determination. Any enforcement action shall be stayed pending the resolution of such an application filed. The person making application may appeal to the Planning Board the Director of Building and Planning's determination pursuant to the procedures specified in Section 10.16.00 of the City's Land Development Code, as amended from time to time. An appeal shall stay all proceedings in furtherance of the action from which appeal is made. If the applicant shall establish by competent substantial evidence that the fixture, lamp or circumstance is or will be in compliance with this law, the burden shall shift to the City to establish by the greater weight of the evidence that it does not. Once a final determination is made hereunder (and appropriate appeal periods have passed or otherwise been waived), the determination shall be binding on all parties and their successors in interest unless a material change occurs in the lighting of the subject property.

Secs. 7-115--7-119. Reserved.

ARTICLE VIII. OBSTRUCTIONS ON THE BEACH AND BEACH ACCESS AREAS PROHIBITED

Sec. 7-120. Purpose.

The purpose of this article is to ensure the beach and beach access areas are free from any obstruction by any item of personal property in order to protect public ingress, egress, and regress to the beach, promote public safety, and to protect endangered sea turtles.

Sec. 7-121. Definitions.

As used in this [Article](#) ~~article~~:

Beach means that area of unconsolidated material that extends landward from the mean low-water line of the Gulf of Mexico, to the frontal dune, or to where there is no frontal dune, to the line of permanent vegetation or construction, whichever is more seaward.

Beach access areas means those public beach access points identified by the City Parks and Recreation Department, including associated boardwalks, walkways, and dedicated parking areas, and the area on the beach beginning at the entrance of the beach access point perpendicular with the applicable road right of way to the water's edge.

Dune means a mound, bluff or ridge of loose sediment, usually sand-sized sediment, lying upland of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation, and is subject to fluctuations in configuration and location. In the absence of a discernible dune, the seaward boundary of a dune will be deemed to be the line of

native vegetation.

Personal property means all types of personal property, including by way of example and not limitation, tents (including tent frames), canopies, cabanas, umbrellas and other shading devices, picnic tables, tiki huts, volleyball nets, tents, hammocks, beach chairs and other furniture, kayaks, canoes, catamarans, floats, sailboards, surfboards, kites, jet skis, sailboats, water cycles and other watercraft.

Toe of the dune means that area just seaward and off the dune where there is no vegetation.

Sec. 7-122. Obstructions on the beach and beach access areas prohibited.

- (a) It shall be unlawful for any person to leave an item of personal property unattended on any portion of the sandy gulf beach located in the City from 7:00 p.m. until 7:00 a.m. daily, except as otherwise permitted in this article.
- (b) It shall be unlawful for any person to leave an item of personal property unattended at anytime within any public beach access area located in the City.
- (c) Any item of personal property left on the beach unattended in violation of this article shall be deemed discarded by the owner and shall become the property of the City, which may dispose of the item.
- (d) From 7:00 p.m. until 7:00 a.m. daily, on public beaches or on private property with the upland owner's permission, items of personal property that are relocated as close to but not on the toe of the dune or native vegetation, or where there are no dunes or native vegetation, are relocated as close as practicable to an existing permanent structure or the line of buildings, will not be considered discarded by the owner, abandoned or a violation of this article, provided:
 - (1) Such items shall not be placed on the dune or on native vegetation;
 - (2) Such items shall be stored in a neat and orderly manner;
 - (3) Such items shall not inhibit access to the beach from the nearest public access areas, nor obstruct access on the beach, nor impact native vegetation, nor significantly affect sea turtles.
 - (4) Private property owners may store items under or adjacent to their private dune walkovers or boardwalks.
 - (5) Items shall not be placed on any public beach access point or within 20 feet of any public trash receptacle.
- (e) Unattended items of personal property in violation of this article shall be removed from the beach by the Code Enforcement Officer, persons under contract with the Bay County Tourist Development Council, any law enforcement officer, licensed beach patrol, or lifeguard.
- (f) Unattended or abandoned items of personal property in violation of this article are a public nuisance.

Sec. 7-123. Exceptions.

The prohibitions contained in Section 7-122 do not apply to:

- (1) Trash containers;
- (2) Lifeguard stands and lifeguard storage containers, and safety devices;
- (3) Signs placed by a governmental agency;
- (4) Items placed by persons acting under authority of the City Manager or other governmental agency;
- (5) Structures, including without limitation boardwalks, decks, and dune walkovers constructed and permitted by the City, Bay County or the State of Florida; and
- (6) Items placed on the beach by persons who have authorization or a permit to engage in marine turtle nesting research issued by the United States Fish and Wildlife Service.

Sec. 7-124. Permits.

- (a) Permits may be issued by the City Manager or their designee for activities otherwise prohibited by this article for such periods of time and under such conditions as the City Manager deems appropriate under the circumstances that are found to be necessary for:
 - (1) Reasonable accommodation of persons with disabilities;
 - (2) Adjunct to a lawfully existing activity;
 - (3) For the conduct of a governmental, civic or educational activity;
 - (4) For the conduct of scientific research;
 - (5) For special events, or
 - (6) For a beach amusement, beach business, or beach service governed by Article III of this ~~Chapter~~chapter.
- (b) There shall be no fee for obtaining this permit. Such permit shall include the following:
 - (1) Name and contact information of the owner or person in possession and control of the item;
 - (2) Description of the item;
 - (3) Location of the item;
 - (4) Duration of time the item will remain in such location; and
 - (5) Acknowledgement that owner or person in possession and control of the item will be liable for any impacts to federally protected species.
- (c) This article is not intended to authorize any violation of Section 379.2431 Florida Statutes or any of the provisions of the Endangered Species Act. The City will not be liable for any impacts to federally protected species resulting from persons leaving items of personal

property on the beach and such liability will rest with the owner of such item.

Sec. 7-125. Notice.

The City shall provide notice of this ordinance by posting a permanent sign located at the entry of every beach access point.

Sec. 7-126. Penalty.

Violations of this article are punishable as provided in Section 1-12 of the City Code of Ordinances.

ARTICLE IX. CIVIL INFRACTIONS AND PENALTIES

Sec. 7-500 Findings and Establishment.

The City finds, from time to time, that certain, specific violations of this Chapter 7 present a serious threat to the public health, safety and welfare which is irreparable and irreversible and of an itinerant or transient nature. In those instances, and pursuant to Florida Statutes Chapter 162, Part II, the City hereby establishes and imposes the following civil infraction penalties to be incorporated by reference to the appropriate section of this Article wherever necessary throughout this Chapter 7. Each incorporation by reference shall be deemed to be the deliberate finding by the City that they type of violation involved is of such a nature as to constitute a serious threat to the public health, safety and welfare which is irreparable and irreversible and of an itinerant or transient nature unless a more limited finding is expressly made in that conjunction with that incorporation.

Sec. 7-501 Class 1 Infractions: Findings and Penalties.

Each Class 1 Infraction shall constitute a separate civil infraction within the meaning of Florida Statutes Chapter 162, Part II, presenting a serious threat to the public health, safety and welfare which is irreparable and irreversible and of an itinerant or transient nature, punishable by a civil penalty in the amount specified below unless a different amount is specified in the section violated.

First violation: \$1000.

Second violation: \$2000.

Third and all subsequent violations: \$4,000, and as otherwise provided by law. The financial penalty for the third and all subsequent violations shall be cumulative to any other penalty which may be provided by law.

Unless otherwise specified, a person who does not contest a Class 3 Infraction shall be subject to a civil penalty in the following amount:

First violation: \$500.

Second violation: \$1000.

Third and all subsequent violations: \$2,500, and as otherwise provided by law. The financial penalty for the third and all subsequent violations shall be cumulative to any other penalty which may be provided by law.

The penalty for uncontested civil citations may be paid directly to the City Clerk.

Sec. 7-502 Class 2 Infractions: Findings and Penalties.

Each Class 2 Infraction shall constitute a separate, civil infraction within the meaning of Florida Statutes Chapter 162, Part II, presenting a serious threat to the public health, safety and welfare which is irreparable and irreversible and of an itinerant or transient nature, punishable by a civil penalty in the amount specified below unless a different amount is specified in the section violated.

First violation: \$100.

Second violation: \$200.

Third and all subsequent violations of: \$500, and as otherwise provided by law. The financial penalty for the third and all subsequent violations shall be cumulative to any other penalty which may be provided by law.

Unless otherwise specified, a person who does not contest a Class 2 Infraction shall be subject to a civil penalty in the following amount:

First violation: \$50.

Second violation: \$100.

Third and all subsequent violations: \$250, and as otherwise provided by law. The financial penalty for the third and all subsequent violations shall be cumulative to any other penalty which may be provided by law.

The penalty for uncontested civil citations may be paid directly to the City Clerk.

Sec. 7-503 Class 3 Infractions: Findings and Penalties.

Each Class 3 Infraction shall constitute a separate, civil infraction within the meaning of Florida Statutes Chapter 162, Part II, presenting a serious threat to the public health, safety and welfare which is irreparable and irreversible and of an itinerant or transient nature, punishable by a civil penalty in the amount specified below unless a different amount is specified in the section violated.

First violation: \$50.

Second violation: \$100.

Third and all subsequent violations of: \$200, and as otherwise provided by law. The financial penalty for the third and all subsequent violations shall be cumulative to any other penalty which may be provided by law.

Unless otherwise specified, a person who does not contest a Class 3 Infraction shall be subject to a civil penalty in the following amount:

First violation: \$25.

Second violation: \$50.

Third and all subsequent violations: \$150, and as otherwise provided by law. The financial penalty for the third and all subsequent violations shall be cumulative to any other penalty which may be provided by law.

The penalty for uncontested civil citations may be paid directly to the City Clerk.

Sec. 7-504 Enforcement

Class 1 and Class 2 and Class 3 Infractions may be enforced by the issuance of a civil citation by a sworn police officer of the City who has reasonable cause to believe that a person has violated this section. All sworn police officers of the City shall be considered code enforcement officers for the purpose of enforcing this section. A citation issued under this section may be contested in the county court for Bay County, Florida. The civil citation shall contain the matters specified in § 162.21 Florida Statutes (2013), or subsequent, superseding legislation, in form approved by the Chief of Police. Any person who willfully refuses to sign and accept a citation issued pursuant to this section shall be guilty of a misdemeanor of the second degree, punishable as provided in §§ 162.21(6), 775.082 & 775.083, Florida Statutes or subsequent, superseding legislation.

Sec. 7-505 Civil Penalties Cumulative.

The Civil Penalties established in this Article and incorporated into specific provisions of this Chapter 7 are always cumulative and in addition to any other civil or criminal penalties available for a violation of the Panama City Beach Code of Ordinances, including the general penalty and terms set forth in Section 1-12, and also cumulative and in addition to any requirements, proscriptions and civil or criminal penalties under state law.

SECTION 2. From and after the effective date of this ordinance, Section 5-5 of the Panama City Beach Code of Ordinances is amended to read as follows (deleted text ~~stricken~~, new text **bold** and underlined):

Sec. 5-5. Animals prohibited in parks

- (a) It shall be unlawful for any owner of an animal to cause or permit such animal into or upon any public park.
- (b) Violation of this Section shall be punishable as a Class 3 Infraction as provided in Section 7.503.

- (b) The city council may, by specific resolution, except one or more parks within the city from the operation of this section, allowing the presence of specified animals.
- (c) This section shall not apply to any dog trained to aid disabled or handicapped persons, when any such dog is actually being used to assist any such person.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.


SECTION 4. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 5. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 10th day of July, 2014.

ATTEST:


CITY CLERK


MAYOR

PUBLISHED in the Panama City News-Herald on the 24th day of June, 2014.