

17. **Revisions to Chapter 5 of the Bay County Code of Ordinances**

Recommendation: Board to hold a public hearing, adopt a change to Chapter 5 of the Code of Ordinances, and authorize the chairman to sign the same.



**Bay County Board of County Commissioners
Agenda Item Summary**

Revisions to Chapter 5 of the Bay County Code of Ordinances

DEPARTMENT MAKING REQUEST/NAME:

County Attorney
Brian Leebrick, County Attorney

MEETING DATE:

May 20, 2025

REQUESTED MOTION/ACTION:

Board to hold a public hearing, adopt a change to Chapter 5 of the Code of Ordinances, and authorize the chairman to sign the same.

AGENDA

Public Hearing

BUDGETED ITEM?

BUDGET ACTION: N/A

**FINANCIAL IMPACT SUMMARY
STATEMENT:**

BACKGROUND:

Chapter 5 of the Bay County Code of Ordinances relates to boats, beaches, and water safety. This proposed ordinance is part of a continuing effort to update provisions of the Bay County Code of Ordinances. In addition to correcting numerous typographical errors, modifying terminology, clarifying penalty provisions, and reorganizing clauses, this ordinance proposes several substantive changes. New regulations are added related to the use of permitted work vehicles on the sand beach areas, including identifying the location of travel, setting a speed limit, and limiting their allowable uses. Lifeguard permitting through the City of Panama City Beach is recognized. Appeals from certain decisions are delegated from the Board of County Commissioner to the special magistrates, and rules for those appeals are provided. Rent or sale of U.S. Coast Guard approved personal floatation devices are specifically authorized as allowable commercial beach services. Storage boxes used on sand beach areas for beach services are permitted with regulations. The requirements for signage in rental rooms are modified to require a reference to penalties for entering the Gulf when double-red flags are displayed.

ATTACHMENTS:

Description

Type

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA, RELATING TO BOATS, BEACHES, AND WATER SAFETY; AMENDING SECTION 5-1 TO CONFORM LANGUAGE TO STATE LAW AND TO PROVIDE A PENALTY; AMENDING AND RESTATING A PORTION OF SECTIONS 5-3, 5-4, 5-5, 5-6, AND 5-126 TO MODIFY THE PENALTY PROVISIONS; AMENDING A PORTION OF SECTIONS 5-6, 5-8, 5-26, 5-82, 5-86, 5-87, 5-112, 5-113, AND 5-122 TO CORRECT TYPOGRAPHICAL ERRORS; AMENDING PORTIONS OF SECTION 5-26 TO ADD REGULATIONS FOR THE OPERATION OF WORK VEHICLES; AMENDING SECTION 5-26, 5-27, 5-42, 5-61, 5-82, 5-88, AND 5-92 TO CHANGE THE TERM BEACH TO SAND BEACH AREAS; AMENDING SECTIONS 5-61 AND 5-63 TO PROVIDE FOR LIFEGUARD PERMITTING THROUGH THE CITY OF PANAMA CITY BEACH; AMENDING AND RESTATING SECTIONS 5-62 TO ALLOW FOR APPEALS TO THE SPECIAL MAGISTRATE; AMENDING AND RESTATING PORTIONS OF SECTIONS 5-82 TO REFER TO THE LIST IN SECTION 5-88 AND MODIFYING THE DEFINITION OF SAND BEACH AREAS; AMENDING SECTION 5-86 AND 5-87 TO REMOVE OUT-OF-DATE TIME REFERENCES; AMENDING AND RESTATING SECTION 5-88 TO REORDER AND MODIFY THE LIST OF EXEMPTED BEACH SERVICES AND TO ADD PROVISIONS RELATING TO STORAGE BOXES USED IN CONNECTION WITH BEACH SERVICES; AMENDING AND RESTATING SECTION 5-90 TO CLARIFY THE PENALTIES FOR VIOLATIONS; AMENDING SECTION 5-91 TO MODIFY THE REQUIREMENTS OF SIGNAGE IN RENTAL ROOMS; AMENDING SECTION 5-148 AND 5-150 TO PROVIDE THAT APPEALS WILL BE HANDLED BY A SPECIAL MAGISTRATE; CREATING SECTION 1-11 TO PROVIDE PROCEDURE FOR ADMINISTRATIVE APPEALS BY A SPECIAL MAGISTRATE; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AREA ENCOMPASSED; AND PROVIDING AN EFFECTIVE DATE AND INCLUSION IN THE CODE OF ORDINANCES.

**THEREFORE, BE IT ORDAINED BY THE BOARD OF
COUNTY COMMISSIONERS OF BAY COUNTY,
FLORIDA.**

SECTION 1. Section 5-1(b) is amended and 5-1(c) is added to the Bay County Code of Ordinances as follows (new text is underlined, deleted text is ~~strike-out~~)

(b) The Cook Bayou area is established as a "slow ~~down~~ speed minimum wake" zone, as that term is defined in F.A.C. 16N-24.002. All vessels are prohibited from proceeding at a speed greater than that the speed which is reasonable and prudent to avoid an excessive wake or condition under the existing circumstances. A motorboat in an area designed as a slow ~~down~~ speed minimum wake zone that:

(1) Is operating on a plane is not proceeding at slow down minimum wake speed and is in violation of this section.

(2) Is in the process of coming off plane and settling into the water, which action creates more than no or minimum wake is not proceeding at slow down minimum wake speed and is in violation of this section.

(3) Produces no wake or minimum wake is proceeding at slow down minimum wake speed and is not in violation of this section.

(4) Is completely off plane and which has settled into the water and is proceeding without wake or with minimum wake is proceeding at slow down minimum wake speed and is not in violation of this section.

(c) Penalties. A violation of this section shall be cited by any sworn law enforcement officer as a non-criminal infraction and processed and punished pursuant to F.S. § 327.73.

SECTION 2. Section 5-3(c) of the Bay County Code of Ordinances is amended and restated as follows:

(c) Penalties. A violation of this section is subject to the penalties identified in Section 1-6 of this Code. In addition, a violation may be punished by the issuance of a citation for a noncriminal infraction pursuant to F.S. ch. 327 and Section 7-1 of the Code of Ordinances, as amended, and resolutions adopted by the Board of County Commission from time to time.

SECTION 3: Section 5-4(c) of the Bay County Code of Ordinances is amended and restated as follows:

(c) Penalties. A violation of this section is subject to the penalties in Section 1-6 of this Code. In addition, a violation may be punished by the issuance of a citation for a noncriminal infraction pursuant to F.S. ch. 327; and Section 7-1 of the Code of Ordinances, as amended, and resolutions adopted by the Board of County Commissioners from time to time.

SECTION 4. Section 5-5(d) of the Bay County Code of Ordinances is amended and restated as follows:

(d) Penalties. Violation of this section is subject to the penalties in Section 1-6 of this Code. A violation may also be punished by the issuance of a citation for a noncriminal infraction pursuant to Section 7-1 of the Code of Ordinances and resolutions adopted by the Board of County Commissioners from time to time. This section shall not operate to impair the enforcement, in appropriate circumstances, of the provisions of the Florida Litter Law, Chapter 403, Florida Statutes.

SECTION 5. Section 5-6(c) of the Bay County Code of Ordinances is amended and restated as follows:

(c) Penalties. A violation of this section is subject the penalties in Section 1-6 of this Code. In addition, a violation may be punished by the issuance of a citation for a noncriminal infraction pursuant to F.S. ch. 327; and Section 7-1 of the Code of Ordinances and resolutions adopted by the Board of County Commissioners from time to time.

SECTION 6. Portions of Section 5-7 of the Bay County Code of Ordinances are amended as follows (new text is underlined, deleted text is ~~strike-out~~)

(a) *Definitions.*

Lake Powell Park Vessel Exclusion Zone means the area described as follows:

Begin at the shoreline 35 feet west of the western-most portion of the boat ramp concrete slab, continue 150 feet north into the lake, continue 45.5 feet northwesterly to a point which is 175 feet from the lake shore, continue 45.5 feet northwesterly to a point which is 200 feet from the lake shore, continue 45.5 feet southwesterly to point which is 175 feet from the lake shore, continue 150 feet south to the lake shore and continue 182 feet more or less east to the point of beginning. (Measurements are approximate and to be used as guidelines for permitting purposes.)

(d) Penalties. A violation of this section shall be cited by any sworn law enforcement officer as a non-criminal infraction and ~~poressed~~ processed and punished pursuant to F.S. § 327.73.

SECTION 7. A portion of Section 5-8(a) of the Bay County Code of Ordinances is amended as follows (new text is underlined, deleted text is ~~strike-out~~):

(a) *Definitions.*

High Point Park idle speed/no wake zone means the area described as follows:

Begin at the High Point Park south property line at the shoreline, continue 150 feet westerly into the lake, continue 46.75 feet northwesterly to a point which is 175 feet from the lake shore, continue 46.75 feet northwesterly to a point which is 200 feet from the lake shore, continue 46.75 feet northeasterly to a point which is 175 feet from the lake

shore, continue 46.75 feet northeasterly to a point which is 150 feet from the lake shore, continue 150 feet easterly to the lake shore and continue 187 feet more or less south to the point of beginning. (Measurements are approximate and to be used as guidelines for permitting purposes.)

SECTION 8. Portions of Section 5-26 of the Bay County Code of Ordinances is amended as follows (new text is underlined, deleted text is ~~strike-out~~):

Sec. 5-26. Operation of vehicles on beach.

(a) It shall be unlawful for any person to operate a vehicle, except for official emergency vehicles, mobility assist vehicles (MAVs), and work vehicles as provided herein on ~~beaches~~ the sand beach areas within the unincorporated area of the county (~~the "beach"~~). ~~The beach shall include that area between Alternate U.S. Highway 98 (Front Beach Road) and the water's edge of the Gulf of America and below the mean high tide line of any other water body.~~

(b) The prohibition contained in ~~this subsection (a)~~ (a) shall not apply to MAVs, Turtle Watch vehicles, and work vehicles permitted or authorized as provided herein. MAVs are limited to operation at any time the public is authorized to be present on the sand beach areas. Work vehicles are limited to operation between sunrise and 10:00 a.m., or between the hours of 4:00 p.m. and sunset. Turtle Watch vehicles are authorized when performing duties under contract with Bay County. Nothing herein shall be construed to permit the operation of any vehicles on the sand beach areas in violation of any other applicable law, nor shall any vehicle be operated on or over dune vegetation or dunes.

(c) As used in this section, the term "mobility assist vehicles" or "MAVs" shall mean any non-motorized vehicle whose limited use is to transport a person with a disability, or any motorized vehicle meeting the following standards:

1. Vehicle weight shall not ~~exceed~~ exceed 350 pounds, and

(f) Work vehicle permits, Turtle Watch vehicle permits, and MAVs for business shall expire December 31 of each year and shall be issued by a county department upon an application containing the following information and accompanied by the applicable following fee:

(2) The application for a work vehicle permit or MAV for business permit shall be accompanied by an ~~initial~~ permit fee in the amount established by the board of county commissioners by resolution from time to time. ~~of \$65.00. This initial permit fee may be increased or decreased by motion of the board of county commissioners.~~

(i) It shall be a violation of this section for a MAV to be operated on the sand beach areas by a person who is not a person with a disability unless that person is transporting a person with a disability.

(j) In addition to all other remedies provided by law to enforce this section, a permit for a work vehicle, Turtle Watch vehicle, or MAV for business permit shall be revoked by the county and any vehicle shall be removed and excluded from the sand beach areas for failing to comply with the provisions of this section.

(l) Permitted work vehicles may only be used for the sole purpose of transporting, servicing, repairing, or replacing essential equipment for the conducting a beach service exempted by Sec. 5-88(b) of this Code and operated on the private property of a beach business which authorized such use. Permitted work vehicles may only access the sand beach areas through the nearest established and properly identified public access route which directly connects the paved highway with the Gulf of America. The driver of any vehicle being lawfully operated on the sand beach areas shall at all times use his or her best efforts to restrict their driving to a corridor one vehicle wide just below the toe of the dune or line of continuous vegetation or, where there is no vegetation line, the building line, subject only to conditions and obstructions on the sand beach areas and the practical necessity of the work-related reason for the authorized use. It shall be unlawful and constitute a violation of this chapter for a driver to operate a vehicle outside such corridor without cause.

(m) No vehicle shall travel at a speed greater than ten (10) miles an hour.

(n) This section shall have no application to the use or operation of an MAV not on the sand beach areas ~~or below the high tide line of any other water body.~~

SECTION 9. Section 5-27 of the Bay County Code of Ordinances is amended as follows (new text is underlined, deleted text is ~~strike-out~~):

Sec. 5-27. No holes on beach.

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

~~(b) For purposes of this section, "beach" means that area of unconsolidated material that extends landward from the mean low water line of the Gulf of America, to the frontal dune, or to where there is no frontal dune, to the line of permanent vegetation or construction, whichever is more seaward.~~

SECTION 10. A portion of Section 5-42 of the Bay County Code of Ordinances is amended as follows (new text is underlined, deleted text is ~~strike-out~~):

Beach patrolman means a person responsible for the safety of persons in and around the sand beach areas.

SECTION 11. Section 5-61 of the Bay County Code of Ordinances is amended as follows (new text is underlined, deleted text is ~~strike-out~~):

Sec. 5-61. Registration with Red Cross, Red Cross permit—Required.

No person shall seek, secure, or hold employment, be self-employed, or donate his services as a lifeguard or beach patrolman or other position where the person is responsible for the safety or supervision of others in water or upon the ~~beaches~~ sand beach areas or their environs unless the person has first registered with the Red Cross and has secured and holds a valid unrevoked permit from the Red Cross or has a lifeguard permit from the Panama City Beach Beach Safety Department.

SECTION 12. Section 5-62 of the Bay County Code of Ordinances amended and restated as follows:

Sec. 5-62. Same—Administrative agency; appeals; fee.

(a) Appeals from an adverse determination by the Red Cross may be made a special magistrate pursuant to Section 1-11 of this Code.

(b) A registration fee shall be charged and paid by each applicant for such determination, registration, and permit issuance, in an amount established from time to time by the board of county commissioners by resolution.

SECTION 13. A portion of Section 5-63 of the Bay County Code of Ordinances is amended as follows (new text is underlined, deleted text is ~~strike-out~~):

Qualifications of applicants for a permit required by this division shall be those required by a lifeguard permit by the Panama City Beach Beach Safety Department ~~or include~~ the following:

SECTION 14. The following definitions in Section 5-82 of the Bay County Code of Ordinances are amended and restated as follows:

Beach amusement shall mean the rental, lease, or hire of a items identified in Section 5-88(b)(6)-(12) of this Code, for use on or in the waters of the Gulf of America, or the conduct or assistance in the conduct, in whole or in part in the unincorporated areas of the county, of rides identified in Section 5-88(b)(13) of this Code on or above the waters of the Gulf of America, or the landing, departure, or operation of a shuttle craft, or access to a water amusement park, in exchange for a fee or value, or the solicitation, sale, or arrangement of any of the same.

Beach service shall mean a person, firm, or corporation primarily responsible for providing or offering the rental or sale of any goods or services on or about the sand beach areas, including, without limitation, the rental or sale of, or the instruction and use of, any such items and services listed in section 5-88(b) of this Code herein, and shall include within its meaning all beach amusements.

Booth or stall shall mean an immobile structure or partial enclosure not exceeding 50 square feet of gross horizontal space.

Sand beach areas shall mean all loose and uncompacted sandy areas, including sand dunes and vegetated areas, lying between the waters of the Gulf of America and the seaward boundary of the seaward most public vehicular right of way.

Shuttle craft shall mean a motor driven floating device designed to carry passengers and used to transport customers between the sand beach areas and another beach amusement, or used to tow a watersled or other floating object for that purpose.

Surfboard or boogie-board shall mean a platform used in the sport of surfing or body-boarding, respectively, a surfboard being longer than a boogie-board.

SECTION 15. Portions of Section 5-86(c) of the Bay County Code of Ordinances are amended as follows (new text is underlined, deleted text is strike-out):

(c) Conduct of parasail, kite, or similar ride, ~~after January 1, 1996. After January 1, 1996, i~~ It shall be unlawful for any person to conduct or assist in conducting, in whole or in part landward of the mean high water line within the unincorporated area of the county, a parasail, kite, or similar ride.

(3) The ride originates in, is conducted entirely over, and ends on the waters of the Gulf of America at all times no closer than one statute mile from another operating parasail, kite ride, watersled, or hydro-flyer ride, except in an emergency, and

SECTION 16. Portions of Section 5-87(c) of the Bay County Code of Ordinances are amended as follows (new text is underlined, deleted text is strike-out):

(c) *Location of beach amusements*—~~Density after January 1, 1996. After January 1, 1996, it shall be~~ It is unlawful for any person to provide or offer any beach amusement at any location on the sand beach areas whenever the aggregate number of points (as specified below) of all beach amusements provided or offered, or both, on the sand beach areas of the parcel containing that location shall exceed the number of linear feet of beachfront of such parcel. The points to be aggregated are:

(2) Hobicat, sunfish, prindle, or similar sailboat: 15

(7) Surfboard or booggie-board: 5

SECTION 17. Portions of Sections 5-88 of the Bay County Code of Ordinances are amended and restated as follows:

(b) *Same—Exemption of certain goods and services.* The prohibition contained in subsection (a) shall not apply to the immediate sale or rental from within a booth or stall, or soliciting or canvassing from within a booth or stall for the immediate sale, rental, or use of the following goods or services in and from such sand beach areas:

(1) Umbrellas;

(2) Cabanas;

- (3) Chairs;
- (4) Sun protective oils and creams;
- (5) Beach photography, including photographs subsequently purchased and delivered off the beach;
- (6) Hobie Cats, Sunfish, Prindles, and similar sailboats;
- (7) Jet skis and other motor driven floating devices;
- (8) Aqua cycles (same as water cycles);
- (9) Floats, paddleboards, boogie-boards, and surfboards;
- (10) Sailboards (but not kite boards);
- (11) Kayaks, canoes, and similar hand paddled boats;
- (12) U.S. Coast Guard approved personal flotation devices;
- (13) Parasail rides, kite rides, hydro-flyer rides, and watersled rides;
- (14) Beach wedding events as described in Section 5-88(e); and
- (15) Beach bonfires as described in Section 5-88(f).

(d) *[Placement of display or storage.]*

1. The goods permitted by this article to be placed upon the beach sand beach areas for rental or sale shall not be displayed, or stored or placed within 30 feet landward of the wet sand so as to avoid being an obstacle to emergency and other permitted vehicles.

2. Any storage box or similar structure located on the sand beach areas shall be painted solid white and maintained in good repair and in a clean, neat, orderly and freshly painted condition with a maximum size of thirty-two (32) square feet and a maximum height of four (4) feet.

3. Only one storage box may be placed on the sand beach areas for each separate location or one for every one hundred (100) feet of linear frontage, rounding down to the nearest hundred, whichever is greater. Any beach service offering personal watercraft for lease or hire may place one additional storage box at each location.

4. Any storage box on the sand beach areas shall be placed seaward of and perpendicular or parallel to the public trash receptacle line approximately twenty feet seaward of 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. Notwithstanding the foregoing, the County Manager may grant a variance allowing placement of storage boxes in an alternative location upon the application of the permitted beach service based upon, in the sole discretion of the County Manager, an affirmative finding of the following factors:

- a. The unique geography, topography, or other environmental conditions make compliance with this section impracticable.

b. The alternative storage location will benefit the public health, safety, and welfare.

c. The need for the alternative storage location is not caused by the applicant's density and intensity of use on the site.

d. The alternative storage location will not impede County operations, beach cleaning, sea turtle nesting, or solid waste collection activities.

Any variance granted pursuant to this subsection shall expire on December 31 of the year in which it was granted regardless of the date it was granted.

5. All goods sold or used in the conduct of a beach service shall be stored either off-site, in a storage box placed in accordance with this section or in a booth authorized by this Chapter. Surfboards and paddle boards may be stored in a neat and clean condition against the back of a booth or stall which shall be secured by a locked tether.

6. Any storage box or booth used for the storage or conduct of a beach service shall be secured to prevent intrusion or theft when unattended.

7. Storage boxes or booths may not be used to store flammable liquids including but not limited to gasoline or liquid propane.

8. No sign or graphics shall be placed thereon except one (1) identifying plaque no more than two (2) square feet in size.

(e) Beach wedding events.

1. Beach wedding events addressed in this subsection are marriage ceremonies held on the sand beach areas that involve any seating, decorations, or amplified sounds and have less than 40 attendees. Larger beach weddings require compliance with Article VII of this Chapter.

2. All beach wedding events shall be subject to the following requirements:

a. Beach wedding events shall be limited to marriage ceremonies.

b. The following are prohibited from taking place during or associated with any beach wedding event:

i. Post-ceremony receptions, celebrations, or similar events.

- ii. Food and beverage service other than water.
- iii. Musical performances featuring amplified sound in excess of sixty (60) decibels.
- iv. Driving a motor vehicle on the sand beach area, except by a vendor for necessary setup and breakdown and in compliance with the requirements of Section 5-26 of this Code.
- v. Dance floors, confetti, rice, glitter, sky lanterns, balloons, fireworks, grills, tiki torches, or other stationary lighting, generators, signs, or banners.
- vi. Any wedding event within one hundred (100) feet from a marked sea turtle nest.

3. Beach wedding events shall be limited to four (4) hours with one (1) additional hour for event setup and breakdown. Beach wedding events must take place beginning four (4) hours before sunset and ending one (1) hour after sunset as those times are published by the U.S. Naval Observatory, Astronomical Applications Department.

4. Beach weddings events shall not impede public beach access along the sand beach areas or the use of the sand beach areas by other authorized uses.

5. Following the beach wedding event, the event site shall be cleaned of all debris and restored to its natural condition. No trash or debris may be stored in a public trash container.

6. It shall be the applicant's responsibility to ensure compliance with all laws or rules adopted by the County during the beach wedding event.

7. Beach wedding events require written evidence of permission of the upland owner and authorization from the upland owner to use their restroom facilities.

8. Any violation of this section may be enforced pursuant to Section 5-90 of this Code.

(f) Beach bonfires.

1. It shall be unlawful for any person to ignite or maintain, or participate in the maintenance of a fire, bonfire, or campfire on the sand beach areas except in

compliance with this subsection, the Florida Fire Protection Code, and payment of any fee established by the Bay County Board of County Commissioners by resolution.

2. Any beach bonfire shall be located on private property with the permission of the upland property owner for the bonfire and authorization from the upland owner to use their restroom facilities.

3. No fires will be allowed within 250 feet of a marked turtle nest, within 50 feet of any vegetation line or within 100 feet of any habitable structure. Any fire must cease immediately upon the discovery of an unmarked sea turtle nest or any other sea turtle activity within the distance limitation proscribed by this section. Any fire located within 400 feet of a marked turtle nest must be screened so as to reduce the fire's visible light to the nest in compliance with any applicable state or federal regulation or the provisions of this Code. Bay County Emergency Services shall be contacted immediately when turtle hatchlings are or become present. All permit holders have a duty to take reasonable measures necessary to protect nearby turtle nests whether marked or not from the potential adverse impact of the fire and associated activities

4. No fire is allowed using organic wood material shall be issued if wind conditions are greater than ten (10) miles per hour. Fires are strictly prohibited on January 1, July 4, and December 31.

5. No fire is allowed if a burn ban is in place or if Bay County Emergency Services has determined that the fire will endanger the public health, safety, welfare, or other people or property.

6. All fires must occur between the hours of 5:00 p.m. and 12:00 a.m. The site shall be cleaned of all debris and restored to its natural condition by 12:00 a.m. It shall be unlawful and a violation of this section for a person to fail to clean up after the fire has been extinguished.

7. No debris from the fire may be deposited in any public garbage receptacle on the sand beach areas.

8. All fires must be fueled solely by propane gas or organic wood material via an elevated fire pit not to exceed three (3) feet in diameter. Burning of any material other than organic wood material or propane shall be a violation of this Code.

9. The person igniting the bonfire shall be present and tend the fire at all times on the site.

10. There can only be one bonfire on each parcel of property, or one for every two hundred (200) feet of sand beach area, rounding up to the nearest hundred, whichever is fewer.

11. Bonfires must have safeguards to protect the public and other property from injury including fire control equipment to be used on site. If the bonfire is an organic wood fueled fire, the person igniting the fire must have equipment capable of cooling and disposing of any debris, coals, and ash within the time provided by this subsection. The person igniting the fire shall keep a 2.5-gallon water-based fire extinguisher tagged in compliance with NFPA 10 standard for portable fire extinguishers on site at all times.

SECTION 18. Section 5-90 of the Bay County Code of Ordinances is amended and restated as follows:

(a) A first violation of subsection (h) of Section 5-84 of this article shall carry a civil infraction fine of \$500.00 as authorized by Section 7-1 of the Bay County Code of Ordinances. Any uncontested penalty paid within 20 days of the date of issuance shall be eligible for a 50 percent discount.

(b) A subsequent violation of subsection (h) of Section 5-84 of this article shall be subject to the penalties in Section 1-6 of this Code. Additionally, the code enforcement board or special magistrate may impose the penalties permitted by Section 7-33 of the Bay County Code of Ordinances. For the purposes of this subsection only, any lifeguard or law enforcement officer shall be deemed a code enforcement officer as defined in Section 7-26 of the Bay County Code of Ordinances.

(c) Violation of any provision of Section 5-84 of this article may be punished by issuance of a citation for a noncriminal infraction pursuant to Section 7-1 of the Bay County Code of Ordinances, as amended, and in resolutions adopted by the Board of County Commissioners from time to time.

(d) Violation of any other provision of any other section of this article is subject to the penalties in Section 1-6 of this Code. A violation may also be punished by issuance of a citation for a noncriminal infraction pursuant to Section 7-1 of the Bay County Code of Ordinances, as amended, and in resolutions adopted by the Board of County Commissioners from time to time.

SECTION 19. Section 5-91 of the Bay County Code of Ordinances is amended as follows (new text is underlined, deleted text is ~~strike-out~~):

Sec. 5-91. Flag warning and rip current signs in rental rooms.

Public lodging establishments, as defined in F.S. § 509.013, located in unincorporated Bay County, must place in a conspicuous location in each rental unit for each occupancy, a sign in form and substance approved by the county manager:

- (1) Explaining the flag warning system; ~~and~~
- (2) Explaining and warning swimmers of rip currents; and
- (3) Explaining the rules and penalties for entering the water when double red flags are flying.

SECTION 20. Paragraph 5-92(a)(2) and subsection 5-92(b) are amended as follows (new text is underlined, deleted text is ~~strike-out~~):

- (2) Conspicuously post at every public or common place of egress from such business to the ~~sandy Gulf sand~~ sand beach areas 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 America behind such business shall at all times conspicuously post, at every public or common place of egress from such business to the ~~sandy Gulf sand~~ sand beach areas, signs in form and substance approved by the county manager:

SECTION 21. The following definitions in Section 5-112 of the Bay County Code of Ordinances are amended and restated as follows:

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).

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

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 article (regardless of the reason for such work) exceeds 50 percent 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 county on or after May 1, 2009.

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.

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.

SECTION 22. Portions of Section 5-113 are amended as follows (new text is underlined, deleted text is ~~strike-out~~):

(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:

(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 subsection (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)(ii) Rearrange lamps and other moveable light fixtures away from windows, and

(b)(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.

SECTION 23. Section 5-122(b) of the Bay County Code of Ordinances is amended as follows (new text is underlined, deleted text is ~~strike-out~~):

(b) It shall be unlawful for any person to leave an item of personal property unattended at any time within any public beach access area located in the unincorporated area of Bay County.

SECTION 24. Section 5-126 of the Bay County Code of Ordinances is amended as follows (new text is underlined, deleted text is ~~strike-out~~):

Sec. 5-126 Penalty.

Violations of this article are punishable as provided in Section 1-6 and Section 7-1 of the Bay County Code of Ordinances.

SECTION 25. The codifier is instructed to modify the numbering scheme of Article VII of Chapter 5 to be consistent the numbering scheme of other portions of the Code (i.e., subsections: (a), (b), (c); paragraphs: (1), (2), (3); clauses: (A), (B), (C))

SECTION 26: Section 5-148(5) is amended and restated as follows:

(5) If the applicant does not accept the type and extent of county services listed and the amount of the county services fee, the county shall nonetheless proceed in ordinary course to complete the application process and either deny the permit through the process contained in this article without consideration of the applicant's objection to the fee, or if the applicant is entitled to the permit then grant the permit upon the condition that the county services fee be paid before the permit becomes valid or effective. The applicant shall have the right to appeal the fee to a special magistrate pursuant to Section 1-11 of this Code. If the special magistrate is unable to timely conduct or conclude the hearing in time for the event to be held pursuant to an otherwise valid permit, the applicant may pay to the county the disputed fee under protest, and the permit shall become effective so that the event may be held.

SECTION 27. Section 5-150(7) of the Bay County Code of Ordinances is amended and restated as follows:

(7) Every denial of a permit and every conditional grant of a permit challenged by an applicant is appealable to a special magistrate as provided in Section 1-11 of this Code.

SECTION 28. Section 1-11 of the Bay County Code of Ordinances is created as follows:

Section 1-11. Administrative Appeals.

(a) Scope. Any provision in this Code providing for an administrative appeal to a special magistrate shall be governed by the provisions of this Section. Additionally, any provision of this Code providing for an appeal to the Board of County Commissioners may be referred by the Board of County Commissioners to a special magistrate and will be governed by these provisions.

(b) Nature. All appeals pursuant to this Section shall be quasi-judicial in nature.

(c) Initiation of Appeal. If the provision of this Code authorizing an appeal does not otherwise provide, appeals shall be in writing addressed to the County Manager and state: (1) the name of the party filing the appeal; (2) project number or other reference number as used by the County; (3) the name of the applicant or other party affected by the appeal; (4) the final decision being appealed; (5) statement of the facts sufficient to demonstrate standing; (6) a statement with specific citations to that portion(s) of the Code on which the appeal is based and a description of how that provision(s) has not been met; and (7) statement of the relief being sought by the person filing the appeal. The appeal shall be headed with the title of Notice of Appeal.

(d) Fee. If the Commission has set a fee for initiating an appeal by ordinance or resolution, the appeal is not deemed received until such fee is paid. If no fee is specified, the fee for initiating an appeal shall be \$1,500.00.

(e) Timing. If the provision of this Code authorizing an appeal does not otherwise provide, appeals must be received by County Manager within three (3) business days after the date final action was taken. The final hearing shall be heard within thirty (30) calendar days after the date the appeal is officially received, unless extended by order of the special magistrate.

(f) Standing. Legal standing for appeals filed pursuant to this Section shall be limited to persons given the right to appeal a specific action pursuant to a provision of this Code. That standing is further limited to aggrieved or adversely affected parties. For the purposes of this Section, the term aggrieved or adversely affected party means any person or local government which will suffer an adverse effect to an interest protected or furthered by this Code. The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons. A party seeking standing other than the party initiating the appeal and the county must submit a written notice to intervene to the County, the party initiating the appeal, and the special magistrate, which must be received by the County Attorney's Office at least three (3) business days prior to the hearing. The notice to intervene must identify the interest that the person has in the proceeding which is different from the public at large. The notice to intervene must also include a detailed outline of the argument in favor or against the matter being considered, including any exhibits or witnesses which will be presented at the hearing,

(g) Procedure. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern such proceedings. All parties to the hearing may present evidence, cross-examine witnesses, rebut evidence, and be informed as to all of the facts upon which the special magistrate acts. All witnesses shall be sworn. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of the state. The special magistrate shall disclose any substantive or material ex parte communications. The special magistrate may inquire of any witness. The party initiating the appeal, the county, and any other party who has demonstrated standing shall be permitted to inquire of any witness before the special magistrate

and shall each be permitted to present brief opening and closing statements. The party initiating the appeal and the county may be represented by an attorney. The special magistrate may adopt rules not inconsistent with the Section for the conduct of a particular hearing.

(h) Order. The special magistrate shall make decisions based upon findings of fact that are available to all parties involved. The special magistrate shall specifically state the reasons for its decision. The special magistrate may sustain, reverse, or reverse with conditions.

(i) Standard. The special magistrate shall reverse a final decision only if the preponderance of the substantial competent evidence in the record demonstrates that an error was made in the final decision being appealed from that fails to comply with the requirements of this Code. The appellant shall have the burden of proof.

(j) Costs. The cost of making such appeal shall be the responsibility of the appellant, cost of responding to such appeal shall be the responsibility of the County. The special magistrate may assess the costs of the proceeding, including special magistrate fees, cost of mailing notices, and other administrative costs incurred because of the appeal.

(k) Notices. The appellant shall be notified by the County Manager or his designee of the time, date, and place of the hearing at which the appeal will be heard. Such notice shall be effected by hand delivery or by certified mail. Public notice of the appeal hearing shall be published pursuant to § 50.011, F.S., at least seven (7) days before the date the hearing will be held. The decision of the special magistrate shall be mailed to all involved parties.

(l) Effect of Filing Appeal. The filing of an appeal shall immediately stay any work, action, or other activity authorized by the final decision being appealed until the appeal process is completed. The appeal process shall be considered completed when a final decision is made by the special magistrate, and shall not include the time involved in judicial review unless otherwise prescribed by law. The stay may be lifted by order of the special magistrate. The special magistrate shall lift the stay where it concludes such stay would pose an imminent peril to life or property. Continuation of the stay may be conditioned by on the posting of a good and sufficient bond, other conditions, or both.

(m) Record. The record to be considered on appeal shall be all written materials considered during the initial decision, any additional written material submitted by the parties to the County, and any testimony considered at the hearing of the appeal. A record of the hearing shall be compiled and preserved, but any preservation or transcription of the hearing shall be the responsibility of each individual party.

(n) Appeal of Special Magistrate. Any review of a special magistrate decision shall be by writ of certiorari to the circuit court.

SECTION 29. APPLICABILITY.

It is hereby intended that this Ordinance shall constitute a uniform law applicable in all unincorporated areas of Bay County, Florida, and to all incorporated areas of Bay County where there is no existing conflict of law or municipal ordinance.

SECTION 30. SEVERABILITY.

If any portion of this Ordinance is for any reason held invalid or declared to be unconstitutional, inoperative, or void by any court of competent jurisdiction, such holdings shall not affect the validity of the remainder of this Ordinance.

SECTION 31. RESOLUTION OF CONFLICT OF LAWS.

In all instances where Florida law, as evidenced by the Florida Administrative Code, Florida Statutes, applicable case law or otherwise, mandates standards or requirements that are stricter than the provisions of this Ordinance, or where a matter is addressed by Florida law that is not addressed by this Ordinance, then said law shall govern. In situations where this Ordinance addresses a matter in a manner that is stricter than that of Florida law, the provisions of this Ordinance shall control.

SECTION 32. INCLUSION IN THE BAY COUNTY CODE.

The provisions of this Ordinance shall be included and incorporated in the Bay County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Bay County Code, once established.

SECTION 33. FILING OF ORDINANCE.

In accordance with the provisions of § 125.66, Fla. Stat., a certified copy of this Ordinance shall be filed with the Florida Department of State.

SECTION 34. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon filing with the Florida Department of State.

DULY ADOPTED in regular session this ____ day of _____ 2025.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
BAY COUNTY, FLORIDA**

Bill Kinsaul, Clerk

Douglas Moore, Chairman

APPROVED AS TO FORM:

Bay County Attorney's Office