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AN ORDINANCE RELATING TO BEACH & WATER SAFETY AND VESSEL CONTROL; PROVIDING FOR INTENT AND PURPOSE; PROVIDING TITLE AND CITATION; SETTING FORTH APPLICABILITY AND DEFINITIONS; PROVIDING FOR REGULATION OF USE AND CONDUCT ON THE BEACH; PROVIDING FOR VESSEL REGULATION; PROVIDING FOR REGULATION OF CONCESSION OPERATIONS, EQUIPMENT RENTALS AND VENDORS ON THE BEACH AND ADJOINING WATERS; PROVIDING FOR PENALTIES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR REPEAL OF ORDINANCES NO. 81-11 AND NO. 85-6; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the recreational use of the public beaches is a treasured asset of this County which is afforded to the public at large, including residents of and visitors to the County; and

WHEREAS, the manner, mode, type and degree of uses to which the public beaches and adjoining waters are placed by the public affects the health, safety and welfare as well as right to enjoyment thereof by the individuals occupying or using said beaches and waters for recreational purposes as well as those residing nearby; and

WHEREAS, the operation of boats and other watercraft in excess of idle speed poses a threat to the health, safety and welfare of swimmers and others who are located offshore from beaches and shorefront bathing areas; and

WHEREAS, it is necessary that the speed and operation of aircraft, boats and watercraft located offshore from beaches and shorefront bathing areas be controlled in order to protect the health, safety and welfare of the citizens of Collier County and visitors to Collier County; and

WHEREAS, it is in the interest for the safety and welfare of the public that certain controls and regulations be enacted to reduce risk of injury to the public and ensure the enjoyability of these natural resources by the general public.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

SECTION ONE: INTENT AND PURPOSE

It is the intent and purpose of this Ordinance to protect and promote the health, safety and welfare of the public at

large, including residents and visitors to Collier County by providing reasonable regulation of the public's use and conduct on the beach and adjoining waters of Collier County, including the designation of specific areas within which the operation of aircraft and vessels may be regulated or prohibited. It is further intended that this Ordinance shall be liberally construed to effect such intent and purpose.

SECTION TWO: TITLE AND CITATION

This Ordinance shall be known and be cited as the "Collier County Beach & Water Safety and Vessel Control Ordinance".

SECTION THREE: APPLICABILITY

This Ordinance shall apply to and be enforced in the unincorporated area of Collier County, including Key Island, Marco Island, Sand Dollar Island and Little Hickory Island, but shall not apply to the other barrier islands within Collier County jurisdiction.

SECTION FOUR: DEFINITIONS

For the purposes of this Ordinance, the following words shall be defined as set forth below:

- A. AIRCRAFT - means any motor vehicle or contrivance now known or hereinafter invented, which is used or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. The term "aircraft" shall include ultralight aircraft and seaplanes.
- B. A-WEIGHTED SCALE or SOUND LEVEL - The sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dBA.
- C. BATHER - means any person who is in the same water as a vessel, whether said person is swimming, wading or engaged in any other activity in the water.
- D. BATHING AREA - means any area of the beach and adjoining waters in which bathers are located or may be

- located, whether or not designated by signs or other form of notification.
- E. BEACH - the soft sand portion of land lying seaward of a seawall or line of permanent vegetation and seaward of the mean high water line.
 - F. BLOODBAITING - the use of blood or bloody fish parts to attract sharks.
 - G. CAMPING - The erection of shelter or similar structures for the purpose of sleeping or lying upon the beach either under or outside of any shelter, vehicle, bedroll, blanket, or other protective garb.
 - H. CHUMMING - The throwing of bait or fish parts into the water to attract fish.
 - I. COLLIER COUNTY or COUNTY - shall mean the unincorporated area of Collier County, Florida.
 - J. DECIBEL (dBA) - A unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.
 - K. GULF - The Gulf of Mexico.
 - L. IDLE SPEED - means the lowest speed at which a vessel or sailcraft can operate and maintain steering control.
 - M. JET SKI - any personal water craft designed exclusively for the riding enjoyment of one or two persons, being propelled by propellers or by a jet pump with a fully enclosed impeller and not weighing over 350 pounds or having a length greater than 10 feet. The term jet ski for purposes of this Ordinance shall include "sea sleds," "dolphin boats," "wave runners," or other such product name meeting the description herein provided.

- N. LICENSE or LICENSED - as used herein means a Collier County Occupational License or having such license.
- O. OPERATE or OPERATION - means to navigate or otherwise use any aircraft or vessel in or on the water.
- P. PERMIT - Beach Vendor's Permit issued by the County.
- Q. RAFTS, FLOATS, AND FLOTATION DEVICES - Any device, whether of canvas, vinyl, rubber, styrofoam or other substance, intended or capable of assisting in the floatation of a person on or in the water of the Gulf of Mexico. The term shall not include vessels or sailcraft, but shall include body boards unless the context clearly indicates otherwise.
- R. SAILCRAFT - a wind-propelled vehicle used or capable of being used as a means of transportation on or in the water, including sailboats, sailboards and windsurfboards.
- S. SEAPLANE - means any aircraft as defined herein that is capable of landing and/or lifting off from a water surface.
- T. SOLICIT OR CANVASS - Any act, delivery, or exchange not initiated by the prospective customer or 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.
- U. SURFING - Surfing means the riding or paddling of a surfboard within the waters of the Gulf of Mexico abutting or adjacent to the beach.
- V. ULTRALIGHT AIRCRAFT or ULTRALIGHT - means any heavier-than-air, motorized aircraft which meets the criteria for maximum weight, fuel capacity and airspeed established for such aircraft by the

Federal Aviation Administration under part 103 of the Federal Aviation Regulations.

W. VESSEL - means a motor propelled or artificially propelled vehicle and every other description of boat, watercraft, barge, and airboat other than a seaplane on the water, used or capable of being used as a means of transportation on or in the water, including jet skis.

SECTION FIVE: REGULATION OF USE AND CONDUCT ON THE BEACH

A. Possession of Glass Containers Prohibited. It shall be unlawful for any person while on the beach or beach access areas to possess or utilize any glass bottle or container.

B. Restrictions on Animals on Beach. It shall be unlawful for any person owning or have under his control any animal, to permit such animal upon the beach, except guide dogs accompanying visually impaired persons or hearing ear dogs accompanying hearing impaired persons shall be allowed on the beach at all times.

C. Open Fires Prohibited; Heated Objects to be Disposed of Properly. It shall be unlawful for any person to have an open fire on the beach. Said prohibition shall not include a stove or grill where so designated and posted by the County Parks and Recreation Department. It shall be unlawful for any person to dispose of any coals, briquets, embers or other heated object from any stove or grill at the beach in other than a County designated receptacle.

D. Overnight Camping Prohibited. It shall be unlawful to camp overnight on the beach.

E. Fishing. It shall be unlawful for any person while on the beach or within 1,000 feet from shore to intentionally fish for sharks or to fish by those methods commonly known as "chumming" or "bloodbaiting." Nothing herein shall be construed to create a duty of any sort on the part of any law enforcement officer or county employee to prevent fishing or to warn of the presence of sharks in the Gulf of Mexico.

F. Throwing of Balls, Frisbees, or Other Objects. It shall be unlawful for any person to throw any ball, frisbee, or other object through any bathing area after having been warned by any law enforcement officer that such activity interferes with or endangers the movement of pedestrian traffic or public safety.

G. Swimming. No person except a person actually engaged in a rescue attempt shall:

- (1) swim or bathe within 150 feet measured in any direction from a pier or jetty;
- (2) swim or bathe in any area posted exclusively for vessel and/or sailcraft use.

H. Use of rafts, floats, and other flotation devices. No person shall:

- (1) use any raft, float, body board, or other flotation device of any description, except for a vessel or sailcraft, more than 500 feet from the water's edge.

I. Operation of vessel or sailcraft while intoxicated. No person shall operate a vessel or sailcraft of any description, whether motorized or not, surf or otherwise use any other equipment in the Gulf of Mexico when under the influence of any alcoholic beverage, or any chemical substance as set forth in Section 877.111, Florida Statutes, or any substance controlled under Chapter 893, Florida Statutes, to the extent that the person's normal faculties are impaired.

J. Use of aircraft on beach or adjoining water prohibited. No person shall operate an aircraft, including seaplanes or ultralights, on or from the beach or the water within 500 feet of the water's edge.

K. Soliciting and Canvassing Prohibited. There shall be no solicitation or canvassing of the public on the beach:

- (1) By other than licensed concessionaires of goods and services for use or consumption on the beach. No person other than a licensed concessionaire shall solicit or canvass for the sale or rental of merchandise, services, goods, or property of any kind or character intended for use or consumption on the beach.
- (2) By licensed concessionaires. No licensed concessionaire shall solicit or canvass for the sale or rental of any merchandise, services, goods or property of any kind or character except from within or within 10 feet of his licensed premises or vehicle.

- (3) By any person of goods and services for use or consumption off the beach. No person shall solicit or canvass for the sale or rental of any merchandise, services, goods or property of any kind or character to be delivered or performed off the beach.

L. Sound Amplification. No audio device, such as loudspeakers, television, radio, compact disc, tape, or record player, or musical instrument, except equipment used by law enforcement, rescue or beach safety personnel, shall be used on the beach in a manner:

- (1) that exceeds a noise level of 60 decibels (dBA) measured on the A-weighted scale at 25 feet from the sound source; or
- (2) that otherwise violates the Collier County Noise Control Ordinance.

M. Breach of the Peace; Disorderly Conduct. No person shall commit such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engage in brawling or fighting, or engage in such conduct as to constitute a breach of the peace or disorderly conduct.

N. Removal of Beach Sand. No beach sand may be removed from the beach.

O. Litter. It shall be unlawful for any person to discard or otherwise dispose of or abandon any trash, garbage, bottles, containers, cans, dead fish or parts thereof, charcoal briquets or ashes, or any other litter, except in designated containers for that purpose. It is further unlawful to dispose of any household garbage on the beach.

SECTION SIX: VESSEL REGULATION

A. Operation of vessel in excess of idle speed prohibited.

- (1) The operation of any vessel, or sailcraft, in excess of idle speed, as defined herein, in or on all waters of the Gulf of Mexico within five hundred feet (500 feet) offshore from all sandy beaches and shorefront bathing areas is hereby prohibited. Said prohibition shall be effective and enforceable regardless of whether or not such area is designated by appropriate sign, buoy or other public notice.
- (2) Jet ski regulation. No person shall operate a jet ski:

- (a) closer than 500 feet perpendicular from the water's edge except to go to and from the shore or except in a vessel corridor designated under subsection (3) hereof nor shall proceed to that portion of the Gulf beyond 500 feet at a speed greater than merely necessary to effectively traverse the breaking water;
 - (b) in an unsafe, reckless or careless manner endangering the life, limb, or property of any person.
- (3) Vessel corridors. The following areas of the Gulf adjacent to the beach closer than 500 feet from the shore may be designated as being exclusively for vessel use between dawn and dusk daily:
- (a) Those areas of Tigertail, Vanderbilt Beach and Clam Pass County Parks and such other parks and areas designated and posted by the County Parks and Recreation Department as vessel corridors or use areas.
- (4) Beach launch of vessels regulated. No person except a law enforcement officer, authorized emergency personnel, or other person actually engaged in a rescue attempt shall traverse the beach with a motorized boat or jet ski and launch such vessel from the beach from an unauthorized launching area.
- (5) Water Skiing. No person(s) including the skier(s) (anyone being towed on a line behind a vessel) and the vessel operator(s) shall water ski closer than 500 feet from the edge of the beach directly on the Gulf.
- (6) Sailcraft, including sailboats, windsurfboards, and sailboards. No person shall operate a sailcraft closer than 500 feet perpendicular from the water's edge where bathers are present except to go to and from the shore by the most direct means possible in a safe and reasonable manner.
- (7) Regulated areas. No person shall operate a motorized vessel or sailcraft within an area which has been clearly marked by buoys or some other distinguishing device for bathing, swimming or which has been otherwise restricted by the County, provided that this subsection shall not apply in the case of an emergency or to a patrol or rescue craft.

B. Vessel speed not to exceed reasonable speed under existing conditions. Nothing contained in this Ordinance shall be construed to authorize or approve the speed of any vessel or sailcraft in excess of that which is reasonable and proper under the existing conditions or circumstances including, but not limited to, the presence of water skiers, bathers, fishermen, natural hazards or other water traffic.

C. Exemptions. The following shall be exempted from the provisions of Section Six of this Ordinance:

- (1) The provisions of this Ordinance shall not be construed to prohibit the operation, racing or exhibition of vessels or sailcraft during a publicly announced, properly authorized, supervised and adequately patrolled regatta, speed trial or exhibition.
- (2) The operators of Law Enforcement or rescue vessels or vessels operating under emergency conditions shall be exempted while conducting official duties or operating under emergency conditions.
- (3) Commercial fishing vessels are exempted while conducting fish netting operations, provided the operations are conducted in a safe and prudent manner and in accordance with Section Six (B), Vessel speed not to exceed reasonable speed under existing conditions. Under no circumstances, however, shall commercial fishing vessels be operated at greater than idle speed within five hundred feet (500 feet) of bathers.

SECTION SEVEN: REGULATION OF CONCESSION OPERATIONS, EQUIPMENT RENTALS AND VENDORS ON THE BEACH AND ADJOINING WATERS

The safety and welfare of the persons that reside nearby the County's beach areas and of the public that recreate on the beach and adjoining waters makes necessary and appropriate the following regulations:

A. Beach Vendor Permit Requirement. Any person engaged in the rental, leasing, bailment for consideration, or otherwise providing transportation for remuneration, of motorized or wind-driven vessel(s) for use by the public on the beach or adjoining waters of Collier County, including jet skis and sailcraft, shall be required to obtain a "Beach Vendor Permit" from the County. A Beach Vendor Permit shall issue and be maintained upon the applicant paying such application fee therefor as established by the County by resolution and meeting the following requirements:

- (1) The applicant must have an operations office or headquarters located at a land-based location with direct access to the beach in the immediate area where the vessels are being provided for public use.
- (2) The applicant must have and maintain a telephone or marine radio at its land-based operations office.
- (3) The applicant must have a motorized chase boat with operational marine radio in good running condition that meets all U. S. Coast Guard safety requirements kept at vessel rental site during all hours of applicant's rental operations.

- (4) The applicant must have and maintain comprehensive general liability insurance with coverage not less than the amount of \$500,000.00 combined Single Limits.
- (5) The applicant shall provide a list describing and indicating the Florida vessel registration number of each motorized vessel applicant shall place in service. Any motorized vessel placed in service for public use after a Beach Vendor's Permit has issued shall have a Florida vessel registration number affixed thereon.
- (6) The applicant shall provide proof of having minimally one operational life vest for each occupant space on each of the vessels to be offered for public use under Section Seven of this Ordinance.

The applicant is required to obtain a County occupational license for its operations office required under Section Seven of this Ordinance. To obtain an occupational license, the applicant must provide proof of having a current, valid Beach Vendor's Permit.

B. Beach Vendor Permittee / Vessel User Regulations.

- (1) The rental or operation of a motorized vessel subject to the provisions of Section Seven of this Ordinance is prohibited to anyone under sixteen (16) years of age except for those children between twelve (12) and sixteen (16) years of age who may operate such vessel provided that the child's parent or an adult supervisor over the age of twenty-one (21) years operates another such vessel to accompany the child. It shall be a violation of this Ordinance for any person to rent, lease or otherwise provide for money or money's worth a motorized vehicle to anyone except as provided herein.
- (2) The renter, user, passenger of or on any vessel described in Section Seven shall have on board an operational life vest while using or having such vessel in the water, and it is a violation of this Ordinance for any such person(s) using such vessel not to have a life vest on board.

SECTION EIGHT: PENALTY

Any owner, operator, or person in command of any vessel or aircraft or any other person who violates the provisions of this Ordinance or fails to comply with the requirements of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined or imprisoned, or both, as provided by law, and in addition shall pay all costs and expenses incurred in the prosecution of such violation. In addition, and as an alternative means of enforcement, Collier County may enforce the

provisions or requirements of this Ordinance by means of any available civil remedy before the appropriate Code Enforcement Board or in a court of competent jurisdiction.

SECTION NINE: ENFORCEMENT

The provisions of this Ordinance shall be enforced by members of any duly authorized law enforcement agency or officers having jurisdiction in Collier County, Florida.

SECTION TEN: REPEAL OF ORDINANCE NO. 81-11 AND NO. 85-6

This Ordinance supersedes and repeals Collier County Ordinances No. 81-11 and No. 85-6.

SECTION ELEVEN: CONFLICT AND SEVERABILITY

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION TWELVE: EFFECTIVE DATE

This Ordinance shall take effect upon receipt of notice from the Secretary of State that this Ordinance has been filed with the Secretary of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 28th day of February, 1989.

ATTEST:
JAMES C. GILES, Clerk

James C. Giles

JAMES C. GILES, Clerk

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

BY: *Burt L. Saunders*

BURT L. SAUNDERS, Chairman

Approved as to form and
legal sufficiency:

David C. Weigel

David C. Weigel
Assistant County Attorney

This ordinance filed with the
Secretary of State's Office the
9th day of March, 1989
and acknowledgement of that
filing received this 14th day
of March, 1989
By: *Louise Olesaris*

Louise Olesaris
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)

I, JAMES C. GILES, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true copy of:

Ordinance No. 89-11

which was adopted by the Board of County Commissioners on the 28th day of February, 1989, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 7th day of March, 1989.

JAMES C. GILES
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners


By: /s/Maureen Kenyon
Deputy Clerk

