

ORDINANCE 20-03

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF OKALOOSA COUNTY, FLORIDA; AMENDING CHAPTER 19 OF THE OKALOOSA COUNTY CODE OF ORDINANCES; PROVIDING AND AMENDING DEFINITIONS; AMENDING THE PROVISIONS TO INCLUDE COMMERCIAL VESSELS UNDER THE REGULATIONS; AMENDING THE PROVISIONS RELATING TO THE DOCKING OF FLOATING STRUCTURES; PROVIDING SAFETY REQUIREMENTS WHILE OPERATING IN THE CRAB ISLAND ENTERTAINMENT AREA; REGULATING TRANSPORT VESSELS; PROVIDING FOR REVOCATION OF LICENSES; PROVIDING FOR THE SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, there is a continuing problem with the consumption of alcoholic beverages in association with waterborne recreational activities provided from Floating Structures and Commercial Vessels in the waters under the jurisdiction of Okaloosa County; and

WHEREAS, the challenges faced by the County Sheriff and other emergency responders in providing service to waterborne incidents is exacerbated by the influence of alcohol consumption, particularly in association with large crowds of people; and

WHEREAS, the prohibition of the sale, distribution, or consumption from or on Floating Structures and Commercial Vessels within the Crab Island Entertainment Area will greatly decrease the potential of damage or injury and protect the health, safety and welfare of the public; and

WHEREAS, there is a continuing problem with the mooring of Floating Structures in the waters under the jurisdiction of Okaloosa County; and

WHEREAS, the random anchoring of Floating Structures in the waters of Okaloosa County create a hazard to the safety of others that may utilize those waters; and

WHEREAS, the requirement that Floating Structure anchor moored or berthed at public or private marinas, mooring fields after sunset will greatly decrease the potential of damage or injury and protect the health, safety and welfare of the public; and

WHEREAS, under the provisions of Section 327.60, Florida Statutes, counties have the authority to prohibit or restrict the mooring or anchoring of Floating Structures, live-aboard vessels, or commercial vessels, excluding commercial fishing vessels, within their jurisdictions; and

WHEREAS, the requirements that Floating Structures moor or anchor at night at marinas, docks or mooring fields is in the public interest; and

WHEREAS, the number of Floating Structures and Commercial Vessels operating within the Crab Island Entertainment Area are substantial and the number operating within that Area creates a safety issue; and

WHEREAS, the expansion of prohibiting the sale or distribution of alcohol from Commercial Vessels in addition to Floating Structures will improve safety and eliminate abuses that occur within the Area.

NOW THEREFORE, be it ordained by the Board of County Commissioners of Okaloosa County.

SECTION 1. RECITALS. The above recitals are incorporated by reference herein.

SECTION 2. CREATION. Sections 19-80 through 19-82 of the Code of Okaloosa County are hereby amended and sections 19-83 through 19-86 are hereby created to state as follow:

(~~stricken~~ words indicate deletions, underlined words indicate additions)

Sec. 19-80 - Anchoring, mooring, or berthing of Floating Structures.

(1) Applicability. This section shall be applicable within the unincorporated areas of the County and shall include all submerged lands north of the southernmost end of East Pass.

(2) Definitions. The following definitions shall be applicable to this Chapter.

Anchor means the act of temporarily securing a floating structure in the water by means of an anchor or other device and associated tackle that is carried on the floating structure and cast or dropped overboard.

Berth means the act of securing a Floating structure to a slip, dock, seawall, or a fixed or floating pier or piling.

Commercial Vessel means a Vessel used as a place of business or a professional or other commercial enterprise.

Crab Island Entertainment Area means that area as depicted on Exhibit "A".

Floating structure means a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes, but is not limited to, an entity used as a residence, place of business or office with

public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or similar facility or entity represented as such. Floating structures are expressly excluded from the definition of the term "vessel" as defined in sec. 327.02, Florida Statutes. Incidental movement upon water or resting partially or entirely on the bottom does not, in and of itself, preclude an entity from classification as a floating structure. ~~Registration of the entity as a vessel in accordance with Chapter 327, Florida Statutes, shall not preclude an entity from classification as a floating structure.~~

Moor means the act of securing a floating structure in the water by means of a permanent or semi-permanent mooring system affixed to the bottom of the water body

Accessory floating structure shall, for purposes of this section, mean a floating structure that supports or is accessory to a primary floating structure, on or at which goods or services purchased at a primary floating structure are used or consumed.

~~*Primary floating structure* shall, for purposes of this section, mean the floating structure at or on which money or any other thing of value is exchanged for the goods or services offered at the floating structure or its associated peripheral structures.~~

~~*Regular geometric shape* shall, for purposes of this section, mean a shape for which all have sides that are all equal and interior (inside) angles that are all equal.~~

Sunrise shall, for purposes of this section, occur at the time set by the National Weather Service.

Sunset shall, for purposes of this section, occur at the time set by the National Weather Service.

Transition period shall mean from November 1, 2018 through October 31, 2019.

Vessel is synonymous with boat as referenced in s 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(3) *Restrictions on the anchoring or mooring of floating structures.* From the period of sunset until sunrise, all floating structures within the jurisdiction of the County shall be anchored, moored or berthed at a public or private marina, within a permitted mooring field in accordance with all applicable regulations, or at a public or private dock with permission from the property owner and which the upland property associated with the public or private dock is appropriately zoned so as to allow commercial activity. Floating structures will not be allowed to be

anchored, moored or berthed at any dock at which the upland property associated with the dock is zoned residential. ~~or on private property (including submerged lands) with the permission of the owner provided that the anchoring or mooring shall be accomplished in a manner such that the floating structure does not constitute a navigational hazard or interfere with vessels using the waterways.~~ The following shall be exempt from the provisions of this section:

- (a) Houseboats in use as private residences anchored in accordance with all applicable regulations.
- (b) Dredges, draglines, or similar entities for the duration of a lawfully permitted project and when in actual transit or mobilization between projects.
- (c) Floating structures operating within the Crab Island Entertainment Area during the time period beginning March 1 and ending October 31 of each year during the transition period but only under the following conditions:
 - (i) Floating structures within the Crab Island Entertainment Area anchored or moored after dark must, at a minimum, have a 360-degree white all-around masthead light with two-mile visibility mounted such that it is not obstructed from any angle. Where this requirement conflicts with state or federal anchor lighting regulations, the more stringent regulation shall apply;
 - (ii) This exemption shall exist only during the transition period and shall sunset and no longer be effective as of November 1, 2019. At that time, all Floating structures that operate within the Crab Island Entertainment Area shall be required to comply with subsection (3) above.

Section 19-81 – Crab Island Entertainment Area.

(1) Anyone conducting or engaging in commerce whether from a commercial vessel or from a floating structure operating within the Crab Island Entertainment Area shall possess and have displayed a license issued by the County allowing its operation during the period of March 1 to October 31 of each year. Such license shall be issued upon demonstration that the floating structure or commercial vessel is in compliance with all laws and regulations of the United States, the State of Florida and the County.

(2) An administrative fee for the ability to operate and locate within the Crab Island Entertainment Area ~~in the amount of \$1,000.00 per month or for any portion of a month that the floating structure operates in the area~~ shall be paid at the time of application according to the following schedule:

- (a) Commercial vessels shall pay a monthly fee of \$400 for each month or for any portion of a month that the commercial vessel operates in the area.
- (b) structures occupying less than 1,500 square feet shall pay a monthly fee of \$1,500 for each month or for any portion of a month that the floating structure operates in the area.
- (c) Floating structures occupying 1,500 square feet or more shall pay a monthly fee of \$2,000 for each month or for any portion of a month that the floating structure operates in the area.
- (d) In determining the area occupied by a floating structure, the area shall be calculated to include not only the area of the floating structure itself but also the area of any accessory floating structure that is attached, used or facilitates the use of the floating structure.
- (e) The amount of the fee charged to floating structures and commercial vessels that operate within the Crab Island Entertainment Area may be adjusted by the Board.

(3) Owner identification required. The name and contact information (which must, at a minimum, include a valid, active telephone number) of the owner shall be displayed on every floating structure and commercial vessel operating within the Crab Island Entertainment Area as follows:

- (a) Letters and numbers must be bold block letters at least three inches high in a color contrasting to the portion of the structure to which they are affixed.
 - (b) The information must be displayed on the forward half of the structure on both sides above the waterline.
- (4) Floating structures and commercial vessels shall be prohibited from roping or cordoning off of an area in the vicinity of a floating structure or commercial vessel or otherwise limiting the area within the Crab Island Entertainment Area from which the public may freely access. This prohibition shall not include the area immediately under the floating structure or commercial vessel itself.
- (5) Charter fishing services or commercial vessels that do not operate within the Crab Island entertainment Area nor allow passengers to disembark within the boundaries of the Area are not subject to the requirements of this section.
- (6) All floating structures and commercial vessels that are authorized to operate within the Crab Island Entertainment Area shall be required to provide the County at the time they apply to operate information concerning the number of customers that utilize their

respective floating structures or commercial vessels during the prior calendar year as a condition of the annual application.

(7) Any floating structure or commercial vessel that conducts or engages in commerce within the Crab Island Entertainment Area shall possess an authorization from the National Park Service to engage in commercial activities within the Area.

Sec. 19-82 - Propeller cages. As a result of the large number of vessels and persons who are located within the Crab Island Entertainment Area and the environmentally sensitive sea grasses which are present, the owner of commercial vessels less than 21 feet in length, or floating structures that have transport capabilities, shall equip their floating structure or commercial vessel with cages on its propellers while they operate within the boundaries of the Crab Island Entertainment Area.

Sec. 19-83 – Sale, Distribution or Consumption of Alcoholic Beverages Prohibited
The sale, distribution, or consumption of alcoholic beverages (with or without charge) in furtherance of or appurtenant to any commercial activity conducted, on a commercial vessel or floating structure, within the boundaries of the Crab Island Entertainment Area, or on or within any boundary or structure that is tethered or otherwise connected to such floating structure or commercial vessel, is prohibited.

(1) In the application of this ~~division~~ Ordinance, the following shall apply:

- (a) The term “sale” shall mean the exchange of an alcoholic beverage for anything of value.
- (b) The term “distribution” shall mean the delivery of an alcoholic beverage to another, whether for the exchange of value or not, and shall include the delivery of an alcoholic beverage to other floating structures or vessels or to individuals not located on the floating structure.

(2) The provisions of this section shall not apply to:

- (a) Alcoholic beverages served and consumed on floating structures or commercial vessels permanently or temporarily moored to a dock, wharf, or other mooring place that is accessed through upland properties on which exist lawful uses properly licensed to serve alcoholic beverages, and for which the state alcoholic beverage license includes the floating structure or commercial vessels on which the beverages are to be served or where the service of alcohol, is licensed by the Bureau of Alcoholic Beverages and Tobacco and is consistent with all other provisions of law or the County Code.
- (b) The serving of alcoholic beverages during pleasure excursions (e.g., dinner cruises, sunset cruises, wildlife viewing cruises, etc.) charter or commercial fishing, or similar functions in which all alcohol to be consumed will be consumed on board the commercial vessel providing the excursion, and the commercial vessel is under

the command of a captain with the necessary licensure, and for which the subject business maintains all the requisite licenses and permits.

- (c) houseboats in use as private residences.
- (d) the consumption of alcoholic beverages on rented vessels not associated with any commercial activity other than the rental of the Vessel.

Sec. 19-84 Limitation on transport operations.

- (1) All commercial vessels or floating structures operating in Okaloosa County engaged in the business of transporting people to and from the Crab Island Entertainment Area must pick up passengers from a properly permitted and licensed, private commercial facility.
- (2) Commercial vessels that provide transport of customers to the Crab Island Entertainment Area but do not remain at the location while the customers are present are prohibited within the Crab Island Entertainment Area.
- (3) Commercial vessels that provide transport of customers to the Crab Island Entertainment Area are allowed, provided that they continuously remain at the location while the customers are present. Additionally, those commercial vessels that provide transport of customers to the Crab Island Entertainment Area and which are greater than 20 feet in length must be equipped with toilet facilities.

Sec. 19-85 Enforcement; penalties.

(1) The Okaloosa County Sheriff's Office shall enforce this section pursuant to Section 30.15, Florida Statutes and as otherwise provided by law. The Okaloosa County Sheriff's Office, or such other entities designated by the County, shall have the authority to issue a civil citation for a violation of these provisions.

(2) Penalties.

- (a) The violation of any provision of this section shall constitute a civil infraction and shall be punishable by a civil fine of up to five hundred dollars (\$500.00).
- (b) A second violation of any provision of this section within a twelve (12) consecutive month period shall be punishable as a misdemeanor of the second degree.
- (c) Each day a violation of this section occurs shall constitute a separate offense and be punishable as such.

(3) In addition to the sanctions contained herein, the County shall be authorized to take any other appropriate legal action, including, but not limited to, initiating civil actions, seeking cease and desist orders, instituting other administrative actions, and requesting temporary and permanent injunctions to enforce the provisions of this section. It is the purpose of this section to provide additional and cumulative remedies.

(4) The County shall have the authority to revoke, rescind or cancel any license issued to operate within the Crab Island Entertainment Area for a violation of this Ordinance.

Sec. 19-86 - Removal of Floating structures.

(1) Upon receipt of a complaint of a floating structure not anchored, moored, or berthed as provided herein, the Sheriff shall investigate and, if a violation is observed, shall affix the requisite notice to the structure. The enforcing officer shall also attempt to contact the owner or responsible party using the information provided pursuant to sec. 19-80(4), above. If the information provided pursuant to sec. 19-80(4), above, is either not posted or inaccurate, the enforcing officer is under no obligation to make further attempts to identify and contact the owner. Failure of the enforcement officer to contact the owner or responsible property does not negate a violation.

(2) After the posting of the notice, the owner shall have five (5) calendar days to remove the floating structure. If the floating structure has not been removed within the five-day correction period, then the Sheriff's Office shall cause the floating structure to be removed.

(3) All costs associated with removal, towing, impounding, and administrative costs shall be the responsibility of the owner.

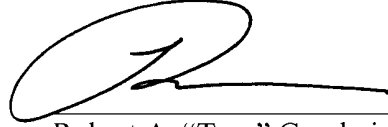
SECTION 4. INCLUSION INTO THE OKALOOSA COUNTY CODE OF ORDINANCES. It is the intent of the Board that the provisions of this Ordinance shall become and be made part of the Okaloosa County Code of Ordinances and that the sections of this Ordinance may be renumbered or re-lettered.

SECTION 5. SEVERABILITY. Should any section or provision of this Ordinance or any portion thereof, or any paragraph, sentence, or word be declared by a court or competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect as provided by law.

PASSED AND DULY ADOPTED this 18th day of February, 2020.

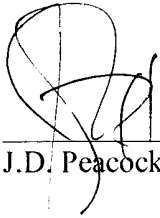
**OKALOOSA COUNTY BOARD OF
COUNTY COMMISSIONERS:**



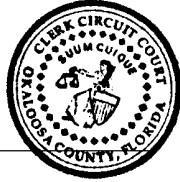
Robert A. "Trey" Goodwin, III, Chairman



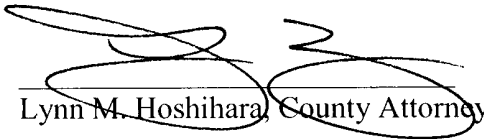
ATTEST:



J.D. Peacock II, Clerk



APPROVED AS TO FORM:



Lynn M. Hoshihara, County Attorney



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

February 21, 2020

Honorable J. D. Peacock II
Clerk of the Circuit Court
Okaloosa County
101 East James Lee Boulevard
Crestview, Florida 32563-1359

Attention: Renee Ramirez

Dear Mr. Peacock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Okaloosa County Ordinance No. 20-03, which was filed in this office on February 21, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

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