

ORDINANCE NO. 21-13

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA, AMENDING ARTICLE IV OF CHAPTER FIVE OF THE BAY COUNTY CODE OF ORDINANCES RELATED TO SWIMMING IN THE UNINCORPORATED GULF WATERS OF BAY COUNTY WHEN DOUBLE RED FLAGS ARE DISPLAYED; MODIFYING PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED by the Board of County Commissioners of Bay County, Florida:

SECTION 1. AMENDMENT TO SECTION 5-84, BOAT AND WATER SAFETY.

Subsection (h) of Section 5-84 of the Bay County Code of Ordinance is amended as follows [Underline (new). Strike-out (deleted)]:

(h) It is unlawful to enter or remain in the waters of the Gulf of Mexico along the shores of the unincorporated areas of Bay County when water conditions are unsafe as evidenced by the display of double red flags by the Bay County Sheriff's Office, ~~and after verbal warning of such condition by any law enforcement officer within his or her jurisdiction.~~ Those persons surfing with a surfboard attached to the surfer by a leash are exempt from this section. A surfboard means a fiberglass, epoxy, closed-cell neoprene or closed cell Styrofoam instrument with one or more

fins or skegs attached to or inserted through the bottom, including windsurf boards and sailboards, but does not include rubber rafts, floats, belly boards, skim boards, or boogie boards. ~~Notwithstanding the penalty in subsection 5-90(a) of this article, a violation of this subsection is a misdemeanor and punishable pursuant to subsection 5-90(b) of this article.~~

SECTION 2. AMENDMENT TO SECTION 5-90, PENALTIES. Subsection (a) of Section 5-90 of the Bay County Code of Ordinances is amended as follows [Underline (new). Strike-out (deleted)]:

(a) A first violation of subsection (h) of Section 5-84 of this article shall carry a civil infraction fine of \$500 as authorized by Section 7-1 of the Bay County Code of Ordinances. Any uncontested penalty paid within twenty (20) days of the date of issuance shall be eligible for a fifty percent (50%) discount.

(b) A subsequent violation of subsection (h) of Section 5-84 of this article shall be punished in the same manner as a misdemeanor and may be prosecuted in the name of the state in a court of appropriate jurisdiction by the prosecuting attorney thereof, and upon conviction shall be punishable by a fine not to exceed \$500 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. Additionally, the code enforcement board or special magistrate may impose the penalties permitted by sec. 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 sec. 7-26 of the Bay County Code of Ordinances.

(c) ~~(a)~~ Violation of any other provision of section 5-84 of this article may be punished by issuance of a citation for a noncriminal infraction pursuant to Ordinance 90-12, as amended, and Resolutions 1594 and 1740, as amended.

(d) ~~(b)~~ Violation of any other provision of any other section of this article is a misdemeanor and may be prosecuted in the name of the state in a court of appropriate jurisdiction by the prosecuting attorney thereof, and upon conviction shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. A violation may also be punished by issuance of a citation for a noncriminal infraction, if one is specifically provided, pursuant to Ordinance 90-12, as amended, and Resolutions 1594 and 1740, as amended.

SECTION 3. SEVERABILITY. If any section, subsection, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 4. REPEAL. All ordinances or parts of ordinances in conflict with this Ordinance are to the extent of such conflict hereby repealed.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately.

DULY ADOPTED in regular session this 7th day of July 2021.

ATTEST:



Kathy Nail, for Bill Kinsaul
Bill Kinsaul, Clerk

BOARD OF COUNTY COMMISSIONERS
BAY COUNTY, FLORIDA

Robert Carroll
Robert Carroll, Chairman

Approved as to form:

[Signature]
Bay County Attorney's Office

