

ORDINANCE NO. 12-28

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA RELATING TO SPECIAL EVENTS IN THE BEACHES AREA SPECIAL TREATMENT ZONE; PROVIDING A DEFINITION; PROVIDING FOR A PERMIT REQUIREMENT; PROVIDING FOR AN APPLICATION FEE; PROVIDING FOR TERMINATION OF PERMIT; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the 2009 Bay County Comprehensive Plan Policy 3.4.3 establishes the *Beaches Area Special Treatment Zone* as the land and water area between the Walton County line and the western terminus of the Hathaway Bridge, and between the Intracoastal Waterway and the Gulf of Mexico, in which Zone the County may impose special regulations as considered necessary;

WHEREAS, the *Beaches Area Special Treatment Zone* is illustrated on Map 3.2 in the Bay County Comprehensive Plan;

WHEREAS, the Bay County Board of County Commissioners (the "Board") finds that the tourism industry is an integral and vital component of the economic livelihood of Bay County;

WHEREAS, the Board finds that it is becoming increasingly difficult to maintain a safe and open quality of life in Bay County with the current trend in tourism;

WHEREAS, the Board desires to minimize and control the adverse effects of Special Events and thereby protect the health, safety, and welfare of the citizenry; preserve the quality of life; preserve and protect property values and the character of surrounding neighborhoods; and

WHEREAS, the Board recognizes the regulation of Special Events is necessary to ensure that adverse effects will not contribute to the blighting and degradation of surrounding neighborhoods.

NOW, THEREFORE, BE IT ENACTED BY THE BAY COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. Title of Ordinance. This ordinance shall be known as the Beaches Area Special Treatment Zone Special Events Ordinance.

Section 2. Purpose. The purpose of this ordinance is to provide for the regulation of Special Events in the Beaches Area Special Treatment Zone as illustrated on Map 3.2 in the Bay County Comprehensive Plan.

Section 3. Definition. The term "special event" shall mean any gathering of persons, reasonably expected to exceed five hundred (500) persons during any one (1) hour, invited by public advertisement for the purpose of witnessing or participating in any entertainment or exhibition, or purchasing or selling any merchandise, food or beverage, or consuming any food or beverage, primarily in open spaces or temporary or permanent venues or structures not customarily, routinely and frequently used for such purposes, or employing parked vans, trailers or other vehicles, which event is reasonably expected to require for its safe and successful execution the provision and coordination of County services or the organizer of the event to a degree above that which the County provides under ordinary, everyday circumstances. A parade held on an officially closed, public street or road and lasting no more than two (2) hours is not, without more, a special event. An event held entirely or partially in a permanent structure or venue designed and intended for such events but which otherwise meets the preceding definition shall be considered a special event if it is reasonable to expect that five hundred (500) or more pedestrians arriving, participating in or leaving the event will at any one (1) time occupy adjacent public street or public property in association with the event.

Section 4. Permit Required. No person shall organize, stage, promote or conduct any special event without first securing from the County Manager or his designee a special event permit under this ordinance. The purpose of this law is to promote the public health, safety and welfare by requiring special event promoters to develop and demonstrate the ability to execute feasible plans to safely conduct the event and to permit the County to understand and prepare for any collateral effects of the event in the community.

Section 5. Application for Permit. Each application for a special event permit required by this ordinance shall contain the following:

- a. The name and address of the applicant and if not a natural person the names and addresses of all persons controlling or owning greater than five (5) percent interest in the applicant or a parent company of the applicant;

- b. The dates and times of the event and a brief description of the activities to be the offered;
- c. An estimate of the largest number of persons anticipated to be in attendance in the event area;
- d. A feasible and credible plan for adequate sanitation facilities and sewage, garbage and litter collection and disposal (during and after the event) generated by the event or by its patrons (wherever such garbage or litter may be located), water supply and food service. For the purpose of evaluating any such plans, any rules promulgated by the Department of Health or other executive department pursuant to F.S. Ch. 381 (Public Health), F.S. Ch. 386 (Sanitary Nuisances), F.S. Ch. 509 (Food Service), or similar laws may be considered;
- e. A feasible and credible plan for flood-lighting the special event and parking areas if any activities are to be offered during darkness;
- f. A feasible and credible plan for adequate parking facilities and plans for transporting or conducting patrons from said facilities to the special event area;
- g. A feasible and credible plan for provision of adequate traffic control, security and emergency vehicle access in and around the special event area. Any such plan shall provide for at least one (1) person professionally trained in traffic control for every five hundred (500) anticipated, maximum hourly attendees, and at least one (1) certified law enforcement officer or person licensed as a security guard under F.S. Ch. 493 (Class "D" or better) on duty for every one thousand (1,000) anticipated, maximum hourly attendees, with no security or traffic personnel working more than one (1) eight (8) hour shift in any twenty-four (24) hour period. The plan shall include a detailed description of the plan of security, traffic control, communications, fire protection and emergency services, including ambulance service, to be used and how it is to be implement, and the general background of training and ability of the personnel to be used in implementing the plan;
- h. A feasible and credible plan for adequate medical facilities at the special event. The staffing guidelines for events presenting a moderate hazard

which are set forth below shall be used to evaluate the plan and may be decreased or increased by the County Manager or his designee after consultation with the County Sheriff and the County Chief of Emergency Services, and one (1) or more persons serving as a Director of Emergency Medical Services in Bay County, depending upon whether the event presents lower or higher hazard.

- i. For an anticipated, maximum hourly attendance rate of five hundred (500) persons or less: none.
- ii. For an anticipated, maximum hourly attendance rate of more than five hundred (500) but less one thousand (1,000) persons: one (1) EMT or paramedic.
- iii. For an anticipated, maximum hourly attendance rate exceeding one thousand (1,000) persons: one (1) additional EMT or paramedic per each 2,000 additional, anticipated maximum hourly attendees, or portion thereof.

By way of illustration, moderate hazard events include, but not limited to, regional events, concerts, carnivals and fairs. Similarly, low hazard events include, but are not limited to, car shows, flea markets, local festivals, craft shows, local sporting events, and organized sporting tournaments. High hazard events include, but are not limited to, an event with stunts or having the potential for special danger to participants or spectators, or the potential for sustained exposure to extreme ambient temperatures. A low or moderate event may present a higher hazard due to extreme temperatures. Higher hazard events may be required to provide an Advanced Life Support Unit with transport capability. Staffing shall be equipped with customary supplies necessary to treat injuries and illnesses commonly associated with outdoor activities or similar events;

- i. Plans demonstrating that all stages, booths, tents, scaffolding or structures of any nature on, under or within which persons may congregate, shall conform to the applicable building and other codes then in effect in the County;
- j. A list of the names and addresses of all vendors, artists, independent contractors or other persons or firms which will be engaged by or

associated with the applicant to offer the goods, services or entertainment comprising the special event, including a description of the goods, services or entertainment offered by each and the name and address of the person who will have on-site responsibility, if different. Should such a list not be available at the time application is made, applicant shall give a written statement to that effect and agreeing to furnish such a list not later than thirty-six (36) hours before the event and acknowledging that failure to timely provide such a list will result in termination of the special event permit.

- k. A site plan showing the location and size of the event area(s) and all parking areas (including required handicap parking), and the location of all other features required by the ordinance.
- l. A feasible and credible plan to provide and control safe pedestrian access between parking area(s) and the event area(s) which will minimize adverse impacts upon surrounding properties and businesses;
- m. A feasible and credible plan to enclose, restrict or control access to all parking and event area(s) and to limit the number of persons within the event areas(s) to the maximum number anticipated, and a feasible and credible contingency plan to deal with persons in excess of that number to minimize adverse impacts upon surrounding properties and businesses.
- n. To be credible, a plan must include either evidence that the applicant is capable of executing it alone, or written commitments from qualified third parties promising to execute or assist the applicant in executing the plan and acknowledging that the commitment is being made to induce the County to issue a permit for the event.
- o. For events anticipating a maximum hourly attendance rate of one thousand (1,000) persons or more, a cash deposit in the amount of two thousand (\$2,000) or one thousand dollars (\$1,000) per day, whichever is greater, but not to exceed five thousand dollars (\$5,000). The return of such deposit, in whole or in part, shall be conditioned upon the applicant timely and completely performing all of the plans submitted with the application or reimbursing the County for all direct and indirect costs incurred to protect public or private health, safety or welfare in the

absence of such performance. In the event any such cost shall exceed the amount of the deposit, the applicant shall be liable to the County for such excess to the extent permitted by law.

Section 6. Application Fee. Application for a special event permit shall be accompanied by a fee of three hundred fifty dollars (\$350.00) or an amount set forth in the schedule of fees.

Section 7. Action on the Application.

- a. The permit shall be deemed granted if the County Manager does not grant or deny the permit in writing within twenty (20) calendar days after receipt of the completed application or additional information if applicable and payment of the application fee. The County Manager's decision shall be based upon the completeness of the application and the feasibility and credibility of the required plans. The County Manager shall deny the application of any person who previously has failed to fully comply with this ordinance, previously submitted a plan required by this ordinance which in execution proved to be inadequate or not feasible, or materially understated or underestimated attendance at an event in the County that was or became a special event (collectively and severally a "Prior Failure") unless such person shall demonstrate by a preponderance of the evidence that the Prior Failure was due to circumstances beyond the person's control and that those circumstances should not have been anticipated by a reasonable person in the position of the applicant at the time. For the purpose of considering a Prior Failure, any act or omission by any person with which the applicant is associated in the current application shall be considered the applicant's failure; that is, a party in interest in an application cannot avoid explaining a Prior Failure by presenting a new individual or entity as the applicant.
- b. The decision of the County Manager is appealable to the Board of County Commissioners by any aggrieved person. Such appeal shall be made in writing to the County Manager within five (5) business days following the County Manager's decision and shall be accompanied by an appeal fee in the amount set forth in the schedule of fees. The Board of County Commissioners shall deny or grant the permit based upon information

presented by the appellant and the County Manager in a de novo, quasi-judicial public hearing held as soon as may be reasonable. The County Commission's decision shall be announced at the conclusion of the public hearing and shall constitute the Commission's Final Order.

Section 8. Posting of Contacts. If the permit is granted, the applicant shall conspicuously display to the public (on a form to be provided by the County Manager) the name, mailing address, email address, and telephone number of each vendor, artist, or other persons offering goods, services, or entertainment at the special event, including if different, the name mailing address, email address, and telephone number of the individual with on-site responsibility for the vendor, artist, or other person. Such form shall be continuously displayed at the booth or specific location within the special event where such goods, services or entertainment are offered.

Section 9. Termination of Permit. If the permit is granted, the facilities, services and hourly staffing as demonstrated in the application shall be continuously provided during the special event, and any failure to so provide shall result in the automatic suspension of the permit and suspension of the event until full provision is made.

Section 10. Penalty. Violations of this ordinance are punishable as provided in Section 1-6 of the Bay County Code.

Section 11. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decisions shall not effect the validity of the remaining portions hereof. The Board hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared illegal, invalid, or unconstitutional, and all ordinances and parts or ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 12. Repeal. All ordinances or parts of ordinances in conflict with any provisions of this ordinance, including all of Chapter 16 of the Bay County Code, shall to the extent hereby repealed.

Section 13. Inclusion in Code. It is the intention of the Board of County Commissioners of Bay County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Bay County, Florida; that the sections of the ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section," "article," or other appropriate designation.

Section 14. Effective Date. A certified copy of this ordinance shall be filed by the Clerk of the Board with the office of the Secretary of State of the State of Florida within ten (10) days after enactment, and this ordinance shall take effect in accordance with Section 125.66(2), Florida Statutes.

DULY ADOPTED in regular session this 6th day of November, 2012.

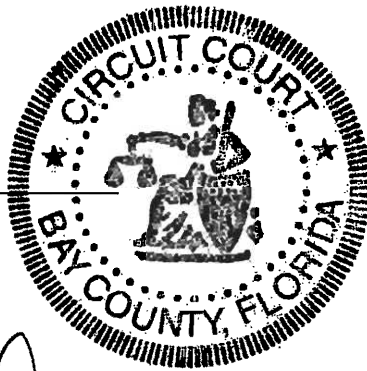


Board of County Commissioners
Bay County, Florida

George B. Gainer, Chairman

Attest:

Bill Kinsaul, Clerk



Approved as to form:

Terrell K. Arline, Esq., County Attorney