

ORDINANCE 1494

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING CHAPTER 7 OF THE CITY'S CODE OF ORDINANCES RELATING TO BEACH SAFETY; PROHIBITING AND MAKING UNLAWFUL THE DISOBEDIENCE OF A LAWFUL ORDER OF POLICE OR FIRE RESCUE PERSONNEL TO LEAVE THE GULF OF MEXICO; PROVIDING FOR PENALTIES AND ENFORCEMENT; REQUIRING THAT BEACH BUSINESSES POST SIGNS DURING DOUBLE RED FLAGS; AUTHORIZING CODIFICATION; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Department of Environmental Protection has adopted a uniform warning flag program for use by Florida's beachfront communities, which system is intended to minimize the risks of drowning or serious injury; and

WHEREAS, the City prominently displays signs at its beach accesses and in transient dwelling accommodations to educate beachgoers of the flag system and hazard signified by such flags, and flies flags up and down its nine miles of beaches to indicate the Gulf conditions; and

WHEREAS, double red flags signify the water is closed to the public; and

WHEREAS, the City has experienced increasing difficulty convincing tourists and other persons to get out of the waters of the Gulf of Mexico when conditions make swimming reckless, as often indicated by the presence of double red flags; and

WHEREAS, swimmers who enter the water in dangerous conditions risk not only their own lives but the lives of those attempting to rescue distressed swimmers; and

WHEREAS, on June 21, 2019, one such rescuer, Stacey Redmon, gave his life saving a child from certain peril as double red flags flew overhead. To honor his memory the City Council deems it necessary to protect those like Mr. Redmon who may take action through stricter enforcement of the uniform warning flag system; and

WHEREAS, the City Council finds that surfers are often the first to respond to distressed swimmers and have saved countless lives through their deliberate efforts to help others while enjoying a time-honored sport in the Gulf of Mexico; and

WHEREAS, the City Council finds based upon personal information and belief that the majority of local surfers are skilled swimmers capable of safely navigating dangerous conditions due to their superior skills and equipment so that they may remain in the water during otherwise dangerous conditions; and

WHEREAS, the City acknowledges that a person's attachment by a leash to a surfboard enhances their chances of surviving adverse gulf conditions by virtue of that attachment to a surfboard and that failure to be tethered to a surfboard creates an enhanced risk of distress in dangerous gulf conditions; and

WHEREAS, there currently exists no legal requirement for persons in the Gulf of Mexico to get or stay out of the water upon instruction of police or fire rescue personnel responsible for safety supervision of others in the Gulf; and

WHEREAS, the City Council finds that for the protection of tourists and others swimming in the Gulf, and to reduce the risk to persons attempting to rescue swimmers who experience difficulty in Gulf waters, refusal to obey the order of a police officer or fire rescue personnel acting to supervise the safety of others must be made unlawful.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this Ordinance, Section 7-12 of the City's Code of Ordinances is created to read as follows:

Section 7-12. Failure to obey lawful order.

- (a) The legislative intent of this section is to authorize City personnel to order persons to stay out of or come in from the Gulf of Mexico when double red flags are flying.
- (b) Failure to obey an order to stay out of or come in from the Gulf of Mexico by a police officer, when reasonably known to be such an official, is hereby prohibited and made unlawful. Such order shall be made for the purpose of ensuring the safety of persons using the beach

or waters of the Gulf of Mexico. Any person violating any provision of this section may be punished as follows:

1. First Offense: verbal warning.
 2. Second Offense (occurring within twenty-four hours but following an opportunity to comply with the preceding warning): Misdemeanor of the second degree punishable by a fine of no more than \$500, or a sentence of not more than sixty (60) days in jail, or both.
- (c) Failure to obey an order to stay out of or come in from the Gulf of Mexico by any member of the City's fire rescue department, when reasonably known to be such a person, is hereby prohibited and made unlawful. Any person violating any provision of this section may be punished as follows:
1. First Offense: warning
 2. Second Offense: by a civil penalty of \$250.
 3. Third Offense: by a civil penalty of \$500.
- (d) All fire rescue personnel of the City shall be considered code enforcement officers for the purpose of enforcing this section. A citation issued under section (b) may be contested in accordance with the provisions of Chapter 25 of the City's Code of Ordinance.
- (e) This section shall not apply to persons attached by a leash to a surfboard. 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.

SECTION 2. From and after March 1, 2020, Section 7-22 of the City's Code of Ordinances is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

Sec. 7-22. - "No lifeguard" and beach safety signage required.

(a) Any person managing or controlling a Beach Business which permits its business invitees to swim in the waters of the Gulf of Mexico behind such business shall at all times either:

1. Cause such business to furnish one or more Exclusive Lifeguards covering substantially all of its beachfront, where each Exclusive Lifeguard is responsible for no more than two hundred fifty (250) linear yards of beachfront and has a Tower in materially the center of his or her zone of responsibility, or

2. Conspicuously post at every public or common place of egress from such business to the sandy Gulf beach 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 Mexico behind such business shall at all times conspicuously post, at every public or common place of egress from such business to the sandy Gulf beach, signs in form and substance approved by the City Manager:

1. explaining the flag warning system; and
2. explaining and warning swimmers of rip currents.

(c) During all times when double red flags are flying, an owner or operator of a Beach Business shall conspicuously post a two-sided sign at any public or common place of egress from such business which states that the water is closed in substantially the following form:

**"WATER CLOSED TO PUBLIC.
ENTRY INTO GULF OF MEXICO
PUNISHABLE BY ARREST.
SECTION 7-12, PCB CODE OF ORD."**

SECTION 3. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 4. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 5. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 8th day of August, 2019.



MAYOR

ATTEST:


CITY CLERK

EXAMINED AND APPROVED by me this 8th day of August, 2019.


MAYOR

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