

ORDINANCE NO. 1644

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING CHAPTER 7 RELATED TO BEACH COMMERCE; CLARIFYING THE REQUIREMENTS OF DELIVERY BEACH CHAIR SERVICE; PROVIDING FOR PENALTIES FOR FRAUDULENTLY OBTAINING A PERMIT REQUIRED BY THE CITY'S CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; SCRIVENER'S ERRORS; LIBERAL INTERPRETATION; MODIFICATIONS; INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. From and after the effective date of this ordinance, Section 7-82 of the City's Code of Ordinances related to beach commerce is hereby amended as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

Sec. 7-82. Same-exception for booths and stalls; limited delivery service.

- (a) The prohibition contained in section 7-80 shall not apply to persons soliciting or canvassing from within a Booth or Stall, for the sale or rental of any merchandise, services, goods, or property of any kind or character to be delivered or performed off such sand beach areas.
- (b) The purpose of requiring a booth or stall is to reasonably permit commercial speech relating to goods and services not directly serving a public need in the sand beach area, without unreasonably interfering with the flow, recreation, enjoyment and privacy of persons otherwise upon the sand beach areas.
- (c) A permitted Beach Service may offer and deliver services without a booth or stall at any location which meets the following criteria:
 - (1) The upland property is a single-family home;
 - (2) The upland property is a multi-family development consisting of no greater than fifteen (15) dwelling units which is controlled by a single entity or an owner's association of which all unit owners are members; or
 - (3) The upland property is undeveloped but is otherwise owned, leased, or controlled by a single entity or association.
- (d) In addition to compliance with the otherwise applicable provisions of this chapter, a delivery Beach Service shall be subject to the following requirements:
 - (1) No more than one Beach Service may offer delivery services at any one location which shall be evidenced by the upland owner's permission **which may be evidenced by electronic communication from the upland owner.**
 - (2) Any Beach Service offering delivery Beach Commerce shall hold a valid permit for each location issued by the City Police Department in accordance with Article III of this Chapter; and
 - (3) No person may solicit, offer or deliver services or goods other than rental chairs and umbrellas; and
 - (4) Any goods delivered by a Beach Service must be removed from the location at or before sunset of each day; and

- (5) A Beach Service may not be granted any additional permit to drive on the beach by virtue of offering a delivery Beach Service.
- (6) **Any delivery beach chair or umbrella placed on the sandy gulf beach must be marked in clearly legible print not less than 2-inches in size with the name, permit number, and telephone number of the responsible Beach Service.**

SECTION 2. From and after the effective date of this ordinance, Section 7-506 of the City's Code of Ordinances related to revocation of beach permits is hereby amended as follows (new text **bold and underlined**, deleted text ~~struck through~~):

Sec. 7-506. Revocation or suspension of permits and certificates of compliance.

- (a) In addition to any other civil or criminal penalties authorized by City ordinance or state law, the provisions of this chapter shall be enforced pursuant to this Chapter through an order to show cause issued by the Hearing Officer to revoke or suspend a permit or certificate of compliance issued pursuant to this chapter, as provided in this section.
- (b) An order to show cause shall be issued by the Hearing Officer to any person, Owner-Operator or Beach Service for which that person was employed, Owner-Operator or Beach Service or any employee, agent or independent contractor or subcontractor of that person, or Owner-Operator or Beach Service upon the voluntarily payment of a civil citations or finding of guilt for a violation of this Chapter under the following schedule:
 - 1. Three (3) Class 1 violations in any calendar year.
 - 2. Five (5) Class 1 or 2 violations in any calendar year.
 - 3. Seven (7) Class 1, 2, or 3 violations in any calendar year.
 - 4. **Upon any single finding of reasonable suspicion by the City Police Department that any person fraudulently obtained a permit required under this Chapter. For the purposes of this section, fraud means an intentional deception, omission, or misrepresentation made by a person with knowledge that of the deception, omission, or misrepresentation.**
- (c) The Order to Show Cause shall set the date and time at which the action to revoke or suspend any permit or certificate of compliance shall be heard in accordance with section 25-33 of this Code.
- (d) After notice and opportunity for hearing held in accordance with the procedures set forth herein and in Chapter 25 upon an order the Hearing Officer shall revoke or suspend the permit or certificate of compliance of the violator based upon the following factors which shall be used to determine the appropriate sanction:
 - 1. Any prior warnings provided by any City employee to the violator(s) for the subject violation(s).
 - 2. Prior citations issued to the violator(s) for the subject violations or other violations of this Chapter.
 - 3. The potential or actual injury caused by the violation including violation of any violation of the rights of the public at large.
 - 4. The existence of aggravating or mitigating factors established by competent and substantial evidence before the Hearing Officer.
- (e) Based on a careful consideration of the guidelines set forth in this section, the Hearing Officer shall issue an Order which sets forth the specific sanction, if any, which shall clearly designate the activities, locations, persons, and entities subject to the sanctions provided by the Order. The Hearing Officer may, due to the seasonal nature of the activities regulated herein as well as the annual permit system, enforce any sanction in a subsequent calendar year upon a finding that seasonal factors would allow the violator to evade the sanction's effects.

- (f) Any time a Code Enforcement Officer shall have probable cause to believe that any facts exist which ultimately could lead to revocation or suspension of a permit or certificate of compliance, it shall be their duty to investigate and if they find that such facts do exist file with the Hearing Office a complaint specifying the charge. The complaint shall also state whether the complaint is the alleged violator's first, second, third, fourth or fifth offense that calendar year.
- (g) An Order of the Hearing Officer suspending or revoking a permit or certificate of compliance may also assess against such violator or the associated Beach Service or Owner-Operator, or both severally, the reasonable investigative and legal costs for the prosecution of the violation which shall bear interest at the rate provided for judgments in the circuit court and may be enforced as provided by law.
- (h) Regardless of the term of any such suspension stated in the order, the suspension shall continue until all investigative and legal costs assessed against the violator plus interest is paid in full.

SECTION 2. CONFLICT WITH OTHER ORDINANCES OR CODES. All Ordinances or parts of Ordinances of the Code of Ordinances of Panama City Beach, Florida, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 3. SEVERABILITY. If any provision of this Ordinance is held to be illegal, invalid, or unconstitutional by a court of competent jurisdiction, the other provisions of this ordinance shall remain in full force and effect.

SECTION 4. SCRIVENER'S ERRORS. It is the intention of the City, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Panama City Beach, Florida, and to that end, the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section" or "article" or other appropriate designation. Additionally, corrections of typographical errors which do not affect the intent of this Ordinance may be authorized by the City Attorney without public hearing, by filing a corrected or recodified copy with the City Clerk.

SECTION 5. ORDINANCE TO BE LIBERALLY CONSTRUED. This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

SECTION 6. MODIFICATIONS. It is the intent of the City that the provisions of this ordinance may be modified as a result of considerations that may arise during a public hearing.

Such modifications shall be incorporated into the final version of the ordinance adopted by the City.

SECTION 7. CODIFICATION. 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 of Ordinances, 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 8. EFFECTIVE DATE. This Ordinance shall take effect immediately upon passage.

THIS ORDINANCE shall be effective immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 23rd day of May, 2024.

CITY OF PANAMA CITY BEACH



By: Stuart Tettemer, Mayor

ATTEST:



Lynne Fasone, City Clerk

Published on <https://publicnoticesbaycountyfl.gov/> on the 13th day of May, 2024.

Posted on <https://www.pcbfl.gov/government/city-council/ordinances> on the 14th day of May, 2024.



Lynne Fasone, City Clerk

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the City's website by the time notice of the proposed ordinance is published. This Business Impact Estimate may be revised following its initial posting.

Proposed ordinance's title/reference:

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING CHAPTER 7 RELATED TO BEACH COMMERCE; CLARIFYING THE REQUIREMENTS OF DELIVERY BEACH CHAIR SERVICE; PROVIDING FOR PENALTIES FOR FRAUDULENTLY OBTAINING A PERMIT REQUIRED BY THE CITY'S CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; SCRIVENER'S ERRORS; LIBERAL INTERPRETATION; MODIFICATIONS; INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance:

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

¹ See Section 166.041(4)(c), Florida Statutes.

If no exemption applies, in accordance with the provisions of controlling law, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

This ordinance allows beach chair services to obtain a beach commerce permit for limited delivery service based on an email from the upland property owner. It also requires that delivery beach chair services clearly mark each chair or umbrella placed in the sandy gulf beach with the name, telephone number, and permit number of the beach service.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City if any:

(a) An estimate of direct compliance costs that businesses may reasonably incur;

There will likely be minimal compliance costs related to printing required information on beach chairs or umbrellas.

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and

There are no new charges or fees associated.

(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are no new regulatory costs for the City.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

There are likely less than ten businesses impacted by this Ordinance.

4. Additional information the governing body deems useful (if any):