

ORDINANCE NO. 22-15

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA, MAKING FINDINGS; AMENDING SECTION 24-90 TO CHANGE THE DEFINITION OF SPRING BREAK; AMENDING SECTION 24-91 TO MODIFY PROHIBITED ACTS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AREA ENCOMPASSED; AND PROVIDING AN EFFECTIVE DATE AND INCLUSION IN THE CODE OF ORDINANCES.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA:

SECTION 1. Background and Finding of Facts.

WHEREAS, the beaches of Panama City Beach and unincorporated Bay County are a tourist destination frequented by over 18 million visitors annually; and

WHEREAS, while drawn to the area by the beach, visitors look for other forms of amusement off the beach as well; and

WHEREAS, several decades ago rental scooter businesses began operating in the beaches area and provided an entertaining means of touring the area; and

WHEREAS, as the popularity of rental scooters increased the behavior of scooter operators became noticeably dangerous as traffic violations were more common among rental scooter than other vehicles. This problem was amplified by the lack of training, supervision, and oversight practiced by the rental scooter businesses; and

WHEREAS, the County previously adopted regulations related to the rental scooter business to improve the behavior of the industry and its customers, culminating in an action to re-zoned motor scooter rental businesses as a non-conforming use under the County's Land Development Code. As a result of these actions, scooter rentals in Bay County are limited to approximately 70 scooters.

WHEREAS, the County finds that two material factors have combined to generate or increase the irresponsible behavior of the rented scooter operators which has become a public nuisance, namely (1) the fact that the scooters are rented in many, and probably most, cases as an amusement to ride-the-strip, to see and be seen, and not to "go to the grocery store," and (2) that the increase of traffic congestion on beachside streets resulting from the growth of retail and accommodations has denied the rented scooter operators the use of the streets for amusement and so they weave in traffic and scoot along sidewalks, the right shoulder of the road, parking lots, all in conflict with pedestrians; and

WHEREAS, the County finds that the danger and nuisance of this irresponsible behavior is greater at night simply because, 'it is dark'; and

WHEREAS, when Panama City Beach adopted a similar restriction, its Police Chief stated scooter rentals at night present the biggest nuisance to the public and the greatest impediment to his department's protection of the visitors and residents of the City; and

WHEREAS, the County previously adopted an ordinance which prohibited scooter rental at night in March, which abated the rented scooter nuisance during that month, but recommenced immediately upon the expiration of the prohibition; and

WHEREAS, the County finds that the number of instances of reckless rented scooter behavior is greatest at night; and

WHEREAS, when Panama City Beach adopted a similar restriction, its Police Chief observed that the March prohibition on overnight scooter rentals has been the most effective ordinance recently passed to curb threats to health, safety, and welfare; and

WHEREAS, Panama City Beach received testimony from the Police Chief indicating that scooter operation is most in tension with local traffic in the evening when families get in their cars to go to dinner; and

WHEREAS, the County finds that the operation of rented motor scooters is particularly dangerous at night because the congestion and proclivities of the visitors and the extraordinary demands placed upon law enforcement prevent adequate policing of scooter operation at night, in addition to the fact that typically visitors who rent scooters are unfamiliar with the area, and often are not skilled scooter drivers so that they become more easily confused and distracted in nighttime traffic with reduced visibility and the glare of artificial lights; and

WHEREAS, in addition, the cover of darkness coupled with the nighttime market for illegal substances and the ability of a limited number of skilled scooter drivers to nimbly maneuver scooters in traffic to evade law enforcement, combined, create an environment that is contrary to the County's goal of being a safe, drug-free and family-oriented tourist destination; and

WHEREAS, in light of these findings, the County determines that the rental of motor scooters at night should be prohibited in order to protect the health, safety and welfare of all citizens and visitors in the County after dark; and

WHEREAS, the County finds that the prohibition of scooters during the month of March was an effective measure to enable law enforcement to focus on other matters; and

WHEREAS, the County finds and determines that an immediate prohibition of the rental of scooters between 9pm and 7am daily is necessary to protect the health, safety and welfare of the County's residents and guests, and will enable the police department to focus on other law enforcement matters by reducing the disproportionate time the force must spend to police and respond to the secondary effects of this single industry; and

WHEREAS, the County finds that immediately prohibiting the overnight rental of scooters will not deny all beneficial or productive use of the current scooter inventory of rental businesses because daytime rentals will still be available and the scooters themselves retain economic value for sale or use for other purposes.

SECTION 2. Section 24-90 of the Bay County Code of Ordinances is amended as follows:

Spring break shall mean the period commencing March 1st at 12:01 a.m. and ending March 31st at 11:59 p.m. each year, unless that period is changed or extended by resolution of the board of county commissioners.

SECTION 3. Section 24-91 of the Bay County Code of Ordinances is amended as follows:

Sec. 24-91. Prohibited acts.

(a) [No Change]

(b) [No Change]

(c) ~~It shall be unlawful for any person to rent or lease a motor scooter to any person overnight or between sunset and sunrise each day during spring break. No person shall rent or make a motor scooter available for rent, or permit another to rent or make available for rent, a motor scooter between 9:00 p.m. on Fridays and Saturdays to 7:00 a.m. the following day, and from 9:00 p.m. to 7 a.m. every day throughout spring break.~~

(d) ~~Any rented motor scooter operated on a road at night (between one half hour after sunset and one half hour before sunrise as those times are published by the U.S. Naval Observatory, Astronomical Applications Department (aa.usno.navy.mil/data) during spring break shall be confiscated and towed at the owner's expense. The act of providing, renting, or delivering a motor scooter, or the solicitation of that service or good within unincorporated Bay County for use or possession during the periods when rentals are prohibited as described in subsection (c) above is prohibited and shall be punishable pursuant to the schedule set forth in this Article. Failure of the owner of a rented scooter, or of any agent of the owner engaged in the provision, rental or delivery of a motor scooter, to include in the rental agreement a requirement that the scooter be returned before 9:00 p.m. on a day when overnight rentals are prohibited shall be deemed an unlawful provision by such person of a motor scooter for overnight use or rental. Any act by the owner of a rented scooter or by an agent of the owner which would create a belief in the mind of a reasonable rental customer that the owner or agent will not object to a failure to return the rented scooter before 9:00 p.m. on a day when overnight rentals are prohibited shall be deemed an unlawful provision by such person of a motor scooter for overnight use or rental.~~

(e) It shall be unlawful for any person to operate on the public streets of the county a motor scooter which is rented, leased, or hired within the county (or within the City of Panama Beach as described and provided below), unless each of the following requirements are met:

- (1) The person operating the vehicle is listed as an operator in the rental agreement under which the vehicle is being operated and a copy of that rental agreement is secured in the vehicle or in the possession of the operator.
- (2) The operator of the vehicle has in his or her possession a safety brochure dated and signed by him or her that same day.
- (f) It shall be unlawful for any person to operate on the public streets of the county a motor scooter which is rented, leased or hired within the county if there is on or in the vehicle an alcoholic beverage in a container not sealed with the manufacturer's original seal.
- (g) The county consents to the applicability within its boundaries, and may enforce against persons who rent, lease, or hire, motor scooters within the City of Panama City Beach, any requirements imposed by the City of Panama City Beach upon such persons to the extent consistent with this chapter or any interlocal agreement entered into between the county and city.

SECTION 4. APPLICABILITY.

It is hereby intended that this Ordinance shall constitute a uniform law applicable in all unincorporated areas of Bay County, Florida, and to all incorporated areas of Bay County where there is no existing conflict of law or municipal ordinance.

SECTION 5. SEVERABILITY.

If any portion of this Ordinance is for any reason held invalid or declared to be unconstitutional, inoperative, or void by any court of competent jurisdiction, such holdings shall not affect the validity of the remainder of this Ordinance.

SECTION 6. RESOLUTION OF CONFLICT OF LAWS.

In all instances where Florida law, as evidenced by the Florida Administrative Code, Florida Statutes, applicable case law or otherwise, mandates standards or requirements that are stricter than the provisions of this Ordinance, or where a matter is addressed by Florida law that is not addressed by this Ordinance, then said law shall govern. In situations where this Ordinance addresses a matter in a manner that is stricter than that of Florida law, the provisions of this Ordinance shall control.

SECTION 7. INCLUSION IN THE BAY COUNTY CODE.

The provisions of this Ordinance shall be included and incorporated in the Bay County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Bay County Code, once established.

SECTION 8. FILING OF ORDINANCE.

In accordance with the provisions of § 125.66, Fla. Stat., a certified copy of this Ordinance shall be filed with the Florida Department of State.

SECTION 9. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon filing with the Florida Department of State.

DULY ADOPTED in regular session this 3 day of May 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BAY COUNTY, FLORIDA


Bill Kinsaul, Clerk


Robert Carroll, Chairman

Approved as to form:


Bay County Attorney's Office

