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ORDINANCE 90 - 19

AN ORDINANCE REGULATING ATLANTIC BEACH AND NASSAU SOUND BEACH CONCESSIONS ON NASSAU COUNTY BEACHES WITHIN THE AREAS UNDER NASSAU COUNTY'S CONTROL ON AMELIA ISLAND; REGULATING CONCESSIONS IN COUNTY-OWNED OFF-BEACH PROPERTY OR COUNTY CONTROLLED PROPERTY; PROVIDING FOR PENALTIES; PROVIDING A REQUIREMENT FOR A CONCESSION LICENSE AND FOR RULES PERTAINING TO CONCESSION TYPES, LOCATION, FEES, AND OPERATION AND MAINTENANCE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Nassau County, Florida, recognizes that the Atlantic beach areas and Nassau Sound area on Amelia Island are a recreation area; and

WHEREAS, the County has a wide span of Atlantic beach areas on Amelia Island under its control; and

WHEREAS, the Board of County Commissioners feels it is in the best interest of the citizens of Nassau County that beach concessions be regulated by the Board; and

WHEREAS, the Board of County Commissioners finds it is in the best interest of the citizens of Nassau County that concessions be regulated on County-owned or controlled off-beach property;

WHEREAS, the Board is the trustee of the public interest in the Atlantic beach areas; and

WHEREAS, the Board of County Commissioners has conducted a public hearing.

NOW, THEREFORE, BE IT ORDAINED this 10th day of September, 1990, by the Board of County Commissioners of Nassau County, Florida, as follows:

SECTION I. AUTHORITY, PURPOSE, AND INTENT

This Ordinance is adopted pursuant to Florida Statutes, Section 125, and is intended to provide for the health, safety, and welfare of the Atlantic beach areas under the control of the Board of County Commissioners of Nassau County, Florida.

SECTION II. TITLE

This Ordinance shall be known as the "Nassau County Beach Concession Ordinance".

SECTION III. FINDINGS; POLICIES; OBJECTIVES

The Board of County Commissioners finds that the use and enjoyment of the beach by the public is enhanced by the provision of certain goods and services so long as it is provided in an orderly regulated manner; that a comprehensive and effective program of beach management for the enjoyment of the beach by the public requires flexibility in the number, location, and type beach concessions; and that the public has the right and it shall be the policy of the County that the public shall be compensated for the use of its interest by vendors.

SECTION IV. CONCESSION LICENSE REQUIRED

A concession license shall be required to solicit or canvass, on the Atlantic beach area and Nassau Sound areas under Nassau County's control, for the sale or rental of any merchandise, services, goods, or property of any kind or character. A concession license shall also be required to solicit or canvass on County-owned or controlled off-beach, which serve the Atlantic beach or Nassau Sound beaches, for the sale or rental of any merchandise, services, goods, or property of any kind or character. A license shall grant to the concessionaire the right to sell or rent specified goods or services on the beach areas or other areas stated herein, either from a fixed location or from a moving vehicle. Such license shall provide the exclusive authority to sell or rent goods or services within a defined area or zone of operation on the beach or other areas and shall be renewable only at the option of the County. The license shall be revocable under the procedures set forth hereafter. The County retains the right to grant additional

licenses to sell, rent, or otherwise provide goods and services on property on the Atlantic Beach area and Nassau Sound area under Nassau County's control, either upon a regular, seasonal, or intermittent basis, including in connection with a permitted special event.

SECTION V. CONCESSION LICENSES - TYPES, LOCATIONS, AND RENEWAL

(A) Types and Locations

1. Concession Licenses will be granted only in accordance with policies to be adopted by the Board pursuant to the adoption of a resolution or resolutions.

2. Concession Licenses will be awarded for a one (1) year period, subject to renewal in accordance with the procedures set forth hereafter.

3. Concession licenses for County-owned or controlled off-beach property may be awarded for a period longer than one (1) year.

4. Concession Licenses shall be for roving or fixed on County controlled on-beach locations. (Including Atlantic beach areas and Nassau Sound beach areas.)

5. No fixed on-beach concession licenses shall be granted within one hundred (100) feet of any vehicular approach.

(B) Renewals of Concession Licenses: The County may, at its option, annually renew a concession license.

(C) Relocation of Concessions. Notwithstanding any other provision of this Ordinance, the County shall have the right to relocate, at County expense, any fixed off beach or Nassau Sound location concession, a distance of one hundred (100) feet either north or south to accommodate changes in traffic patterns or beach operations.

SECTION VI. CONCESSION FEE

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(A) Concession Fee. Each on-beach concessionaire shall pay to the County a minimum annual fee of fifty dollars (\$50.00) on or before October 1. Each off-beach concession shall pay to the County a minimum annual fee of \$50.00. A late charge of twenty-five dollars (\$25.00) shall be imposed upon the minimum fee. Failure to remit the minimum fee on or before November 1 of each year shall result in automatic suspension of the authorization to operate until such time as the fee plus late charges have been received by the County.

SECTION VI. OPERATION AND MAINTENANCE.

(A) Jet ski or motorized boat concessionaires shall be subject to specific requirements that shall be set forth by Resolution of the Board of County Commissioners. Said Resolution may be amended by the Board of County Commissioners.

(B) The concessionaire, pursuant to the County's approval, shall mark each concession area with a sign identifying the concession. All concession equipment shall be removed from the beach no later than one (1) hour after sunset each day.

(C) Concessionaires located within County-owned or controlled off-beach or Nassau Sound property shall be subject to specific requirements that shall be adopted by resolution of the Board of County Commissioners.

(D) All concessionaires shall keep and maintain records of daily sales or rentals, including the number and amount of each rental transaction, and the cost of all goods and equipment sold, rented, or otherwise used in connection with the concession. Such records shall be maintained for a period of three (3) years after the termination of a concession license.

(E) All activities related to the business operation of each concession must be confined within an area assigned and designated by a designated representative of the County. Roving

concessions shall operate at all times pursuant to County guidelines, which shall be promulgated by separate resolution by the Board, and concession vehicles shall not be stopped except when making a sale.

(F) Each fixed concession shall have a trash receptacle on-site and shall, at the end of each business day, be required to ensure that all trash from products within a distance of fifty (50) feet measured in any direction from such concession is removed from the beach.

(G) The County shall have the right, but not the duty, to at all times inspect both the interior and exterior of all concession vehicles and equipment for the purpose of ascertaining the condition and safety of the concession. Such inspections shall be in addition to all inspections which may be conducted by the Nassau County Health Department, as an agency of the Florida Department of Health and Rehabilitative Services. Equipment or operations found to constitute a serious threat to the public health, safety, and welfare upon inspection by either the County or the Health Department or in violation of a specific provision of this Ordinance shall be immediately removed or corrected. All deficiencies related to the general appearance of the concession noted as a result of such inspection shall be corrected within thirty (30) days of the inspection. Signs not conforming to County guidelines or of other standards adopted as a part of this Ordinance shall be removed or corrected within fifteen (15) days.

The responsibility for safety of concession operations shall at all times be that of the concessionaire. Nothing herein shall create a duty or obligation on the part of the County to insure, for the benefit of the public, the safety of concession operations.

(H) Additional regulations establishing standards regarding safety and appearance may be promulgated by resolution of the Board of County Commission and adopted hereafter and amended from time to time. Such regulations shall, for all purposes, be considered a part of this Ordinance.

SECTION VII. SIGNS AND MERCHANDISE DISPLAY

All signage and merchandise displays used in conjunction with a concession shall be subject to the following:

(A) The maximum signage for product advertising, including brand names, shall not exceed fifty percent (50%) of the square footage of the total surface area of the front, back, and sides of the concession stand or vehicle. The grill area, windows, and doors of the concessions shall not be computed as a part of the total sign area.

(B) Brand name advertising and logos shall not exceed seventy-five percent (75%) of the total sign area allowed in subsection (A) above.

(C) Roof signs shall not exceed four (4) feet in height for the total length of the vehicle and/or trailer. Roof signs shall not be included in the computation for total sign areas.

(D) Each concessionaire shall visibly and conspicuously place on the concession a sign identifying the concession name and location.

(E) One (1) free-standing A-frame type sign shall be authorized at each concession location. The sign shall not exceed thirty (30) inches in width and forty-eight (48) inches in height, when erected. In no event shall such a sign be placed in the driving area.

(F) Rental equipment may be displayed outside the concession vehicle or wagon.

(G) A roving concession shall be equipped with an "ice cream type" bell.

SECTION VIII. INSURANCE

(A) It shall be unlawful for any concessionaire that rents moving equipment (such as jet skis or motorized vehicles or boats to operate a beach concession unless the concessionaire shall have first procured and filed with the County, a liability insurance policy or policies, or a duly executed certificate of insurance, the terms and conditions of which shall provide for the protection of all persons suffering injury, loss, or damage to the person, or to property, by reasons of the operation of any concession.

(B) The insurance policy or certificate of insurance shall provide comprehensive general liability coverage in the amount of three hundred thousand dollars (\$300,000.00) and shall be executed by an insurance company or companies authorized to do business in the State of Florida and acceptable to the County.

SECTION IX. TERMINATION OF LICENSE; REPRIMANDS; FINES; SUSPENSIONS

The Board of County Commissioners shall have the authority for violation of this Ordinance to take any one or more the of the following actions with respect to the concessionaire:

- (1) Issue a written reprimand
- (2) Impose an administrative fine not exceeding five hundred dollars (\$500.00)
- (3) Suspend the authority for operation on the beach for a specified period of up to thirty (30) days
- (4) Terminate the concession agreement.

The Board shall notify the concessionaire in writing of deficiencies or default in the performance of his duties under this Ordinance or Resolution and the action proposed to be taken

for such violation. The concessionaire shall have fifteen (15) days to request in writing a hearing before the Board. If no request is made, the action proposed by the Board shall become final.

If a hearing before the Board is requested, the concessionaire shall have the opportunity to be heard and to present evidence at the hearing on his behalf.

Any administrative sanction imposed hereunder shall be effective immediately upon becoming final. The non-payment of any fine or costs imposed hereunder for a period of ten (10) days after the order imposing such fine or costs becomes final shall be grounds for further administrative action. A fine imposed hereunder shall have the full effect of a judgment entered at law.

SECTION X. TRANSFER

No concession shall be transferred or assigned except upon the written consent of the Board of County Commissioners, which consent shall not be unreasonably withheld. A transfer fee in an amount equal to seven percent (7%) of the purchase price shall be paid prior to the transfer or assignment of any license, except that payments for transfers resulting from operation of law or descent shall be in the amount of seventy-five dollars (\$75.00), and there shall be no charge for assignment required as a part of a loan agreement between a concessionaire and a bona fide lender relying on the concession license as collateral for a loan.

SECTION XI. DUTIES OF COUNTY; ACCEPTANCE OF PROVISIONS OF ORDINANCE

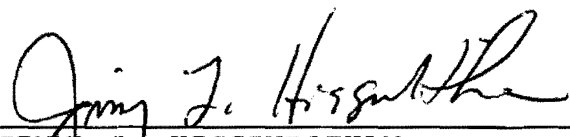
The County's duties to a concessionaire shall be limited to those provided by this Ordinance. The acceptance of a license shall constitute an agreement to operate under its provisions; to be compensated according to the provisions of this Ordinance; and

to waive all rights to provide goods or services on the beach claimed or which may be claimed otherwise to exist.

SECTION XII. EFFECTIVE DATE


This Ordinance shall become effective pursuant to law.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



JIMMY L. HIGGINBOTHAM
Its: Chairman

ATTEST:



T. J. GLEESON
Its: Ex-Officio Clerk