

# **COMMISSION WORKSHOP MEETING CITY OF ST. PETE BEACH**

155 Corey Avenue

**Thursday, November 06, 2008**

**6:30 PM**

Call to Order  
Pledge of Allegiance  
Invocation  
Roll Call

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## **AGENDA MEETING**

*All items on the Consent Agenda will be enacted by one motion at the Regular Meeting. Items may be removed for discussion, changes, and/or anticipation of a non-unanimous vote and considered separately at the Regular Meeting on the request of anyone on the Commission or by a majority vote of the City Commission upon request of an audience member*

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## **REGULAR MEETING**

- 1. Discussion of Proposed Watersports Ordinance**
- 2. Adjournment**

### *APPEALS*

*If a person decides to appeal any decision made at this hearing, they will need a record of the proceeding and, for such purpose, may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105) The City does not furnish verbatim transcripts; interested parties should make the necessary arrangements for verbatim transcripts.*

*Agenda Material is available for review at City Hall on the Friday preceding the meeting. In accordance with the Americans with Disabilities Act and F.S. 286.26, persons with disabilities needing special accommodation to participate in this proceeding should contact Ed Pickhardt at (727) 363-9243 no later than four (4) days prior to the proceeding for assistance.*

**St. Pete Beach City Commission  
Agenda Report**

**Issue Considered:** Discussion of proposed Watersports ordinance

**Date:** November 6, 2008

**Prepared By:** Mike Bonfield, City Manager *MB*

**Summary of Issue:** The City Commission directed the Beach Stewardship Committee and Environmental Stewardship Committee to review the proposed watersports ordinance. The Boards held a joint meeting on July 21<sup>st</sup> and unanimously recommended the Commission adopt the ordinance.

**Requested Motion:** N/A

**Attachments:** Proposed ordinance  
Draft minutes of the July 21, 2008 Joint Beach Stewardship and Environmental Stewardship Committee meeting

To be advertised per F.S. 166.041 as a land development regulation that affects the list of allowable uses of land.

## **ORDINANCE No. 2008-41**

**AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA PROVIDING FOR REGULATION OF COMMERCIAL ACTIVITY ON THE SANDY BEACHES OF THE GULF OF MEXICO; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith, TO THE EXTENT OF SUCH CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of St Pete Beach, Florida (the "City") has a long history as a tourist destination, with over 3,000 tourist lodging accommodations; and

**WHEREAS**, the City wishes to ensure there is a variety of entertainment options for those visiting our beaches; and

**WHEREAS**, The City has determined that this activity must be regulated in order to maintain a safe environment for our visitors;

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City as follows:

The City Code - Chapter 94 – Article III Beaches - is hereby amended as follows:

### **Section 1.** Division 3 – Beach Watersport Regulations

#### **Section 94-131. Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section and as set forth in Fla. Stat. Ch. 327, except where the context clearly indicates a different meaning:

*Beach* means the soft sand portion of land lying seaward of a seawall or line of permanent vegetation and landward of the mean high water line.

*Beach vendor* means a vendor whose operations and storage areas shall be established in the Beach vendor permit. Establishment of vendor areas as provided for in Fla. Stat. ch. 161. Each vendor shall be responsible for the cleanliness of its own area. Each vendor will be responsible for the neat placement and arrangement of its equipment both during the business hours as well as after hours. No beach vendor shall infringe on the beach area of adjacent properties without first having an agreement signed by the owner of said properties.

*Idle speed* means the minimum speed at which a vessel, sail-craft, or personal watercraft can operate and maintain steering control and shall not create a bow or stern wake.

*Operate or operation* means to be in charge of or in command of or in actual physical control of a vessel, or to exercise control over or to have responsibility for a vessel's

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navigation or safety while the vessel is underway upon the water, or to control or steer a vessel being towed by another vessel. Fla. Stat. 327.02

*Permit* means a beach vendor's permit or other permit required by the City to comply with this division.

*Personal watercraft* means a vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel. Fla. Stat. 327.02

*Raft, float and flotation device* mean any device, whether of canvas, vinyl, rubber, Styrofoam, or other substance, intended or capable of assisting in the flotation of a person on or in the water of the Gulf of Mexico. The term shall not include vessels or sail-craft, but shall include body boards unless the context clearly indicates otherwise.

*Sail-craft* means a wind-propelled vehicle used or capable of being used as a means of transportation on or in the water, including sailboats, sailboards and wind-surfboards.

*Vessel* means any human, motor, wind, non-powered or motor propelled or artificially propelled water conveyance and every other description of boat, watercraft, barge, and airboat other than a seaplane on the water, used or capable of being used as a means of transportation on or in the water. Fla. Stat. 327.02

*Vessel corridors* means areas of the Gulf adjacent to the beach and closer than 500 feet from the shore may be designated by resolution of the city commission as being used exclusively for vessel use between dawn and dusk daily.

#### Section 94-132. Penalties; suspension or revocation of vendor permit.

(A) Pursuant to F.S. § 162.22, a person found to be in violation of this division may be charged a fine, not to exceed \$500.00, and may be sentenced to a definite term of imprisonment, not to exceed 60 days.

(B) Violations of this division may also be prosecuted before the Special Magistrate appointed by the City.

(C) The Special Magistrate may suspend or revoke a beach vendor permit for violations of this division after notice of violation is provided to the beach vendor and the beach vendor fails to timely cure the violation. A public hearing to consider suspension or revocation of a beach vendor permit shall occur before the Special Magistrate upon 14 days' written notice to the beach vendor. The notice to the beach vendor shall set forth the provisions of this division which are being violated. City staff shall present evidence of the violation to the Special Magistrate at the public hearing. The beach vendor shall be given an opportunity to address the alleged violations, present evidence and witnesses and cross examine City witnesses. City staff will be entitled to cross examine any

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witnesses testifying on behalf of the beach vendor. If the Special Magistrate finds by the preponderance of the evidence that this division has been violated, the Special Magistrate may suspend or revoke a beach vendor permit. If a beach vendor has had a beach vendor permit revoked, he shall not be eligible to obtain another beach vendor permit for a period of 12 months. For purposes of this section, the term "beach vendor" includes the entity as well as the officers and principals of the entity. Accordingly, if an entity has its beach vendor permit revoked, an officer or principal of the entity shall not be permitted to be an officer or principal in an entity which obtains a beach vendor permit for a period of 12 months.

Sec. 94-133. Usage of beach for watersports activity

(A) Rental of any motorized vessel is prohibited from or on any sandy beach on the Gulf of Mexico, except as provided for in this ordinance.

1. Properties with currently licensed and approved motorized vessel(s) rentals from or on any sandy beach on the Gulf of Mexico are grandfathered for the existing number of vessels.
2. Any currently licensed and operating tourist lodging facility located between the southern end of the property located at 3400 Gulf Boulevard to the northern end of the property at 6300 Gulf Boulevard shall be eligible for motorized vessels as follows:
  - a. Each property with 300' of gulf frontage shall be eligible for one (1) dedicated channel for power boats licensed to operate parasail, cruises, tours and other sightseeing activities to operate. The vessel shall use said channel only to load and unload passengers and shall not be moored in the channel. Only one vessel is permitted to use the dedicated channel at any time.
  - b. Each property shall be eligible to have one (1) personal watercraft to be licensed for every 100' of gulf frontage, with each dedicated channel as provided for in (A) above reducing the amount of gulf frontage by 300'. Adjacent properties may be aggregated for purposes of determining the number of allowable vessels but not for establishing a dedicated channel as provided in (A) above.

(B) The number of non-motorized vessels operating from any site is not regulated. Each non-motorized vessel must be licensed and operated in accordance with city regulations governing such use and must not be operated in any channel dedicated for motorized vessel usage.

Section 94-134. Beach watersport licensing and regulations.

To be advertised per F.S. 166.041 as a land development regulation that affects the list of allowable uses of land.

The safety and welfare of the persons that reside nearby the City's beach areas and of the public that recreate on the beach and adjoining waters makes necessary and appropriate the following regulations:

(A) Beach vendor permit requirement. Any person or business enterprise of any type or kind engaged in the rental, leasing, bailment for consideration, or which otherwise provides recreational equipment for remuneration, including motorized or wind-driven vessel(s) for the use by the public on the beach or adjoining waters of St. Pete Beach, including personal watercraft and sail-craft, shall be required to obtain a Beach Vendor Permit from the City. A Beach Vendor Permit shall be issued and maintained upon the applicant paying such application fee established by the City by resolution and the applicant meeting the following requirements:

1. The applicant must have an operations office or headquarters located at an upland improved facility immediately adjacent to the area where vessels, goods and services are being offered by a vendor for public use with direct access to the beach areas. For the purposes of this article, the term "immediately adjacent" means the applicant owns a building, leases space within an upland improved facility, or has a concession agreement to operate on the land adjacent to the water. The term immediately adjacent does not include a permanent building, which has obtained beach access from a landowner, which owns land adjacent to the water.
2. The applicant must have a written agreement with the affected beachfront property owner at the time application is made for a beach vendor permit, and such agreement shall remain in full force and effect as a condition of the beach vendor permit.
3. The applicant must have and maintain a communications system including a telephone, either land lined or cellular, and marine radio at its operations office with the functional capacity to be always alert to the whereabouts of the rental craft.
4. The applicant must have a motorized chase boat with operational marine radio or cellular phone in good working condition that satisfies U.S. Coast Guard safety requirements, kept at the vessel rental site during all hours of applicant's rental operations.
5. The applicant must have and maintain comprehensive general liability insurance with coverage not less than the amount of \$1,000,000.00 combined single limits, and the City must be named as additional insured. An endorsement certificate must be received by the City from the insurance company indicating such coverage and endorsement.
6. The applicant shall provide a list describing and indicating the vessel registration number of each motorized vessel the applicant shall place in service.

To be advertised per F.S. 166.041 as a land development regulation that affects the list of allowable uses of land.

Any motorized vessel placed in service for public use after a beach vendor's permit has been issued shall have a state vessel registration number affixed thereon, and display either a U.S. Coast Guard inspection or U.S. Coast Guard Auxiliary Safety Check decal.

7. The applicant who proposes to rent recreational equipment, including motorized or wind-driven vessel(s) for the use by public on the beach or adjoining waters of St. Pete Beach, including personal watercraft and sail craft, shall be required to provide and maintain a buoy line of one or more buoys, designating the 500-foot offshore measurement from the area of operation of the beach vendor. The buoy(s) shall be placed 500 feet offshore upon the start of business operations and pulled in out of the Gulf waters when business operations ends.

(B) Boating safety identification cards. A person 21 years of age or younger may not operate a vessel powered by a motor of ten horsepower or greater unless such person has in his or her possession aboard the vessel photographic identification and a boater safety identification card issued by the Florida Fish and Wildlife Conservation Commission (the "Commission") which shows that he or she has: completed a commission approved boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators (the "NASBLA"), or passed a course equivalency examination approved by the Commission, or passed a temporary certificate examination developed or approved by the Commission.

1. Any Commission approved boater education or boater safety course, equivalency examination developed or approved by the Commission, or temporary certificate examination developed or approved by the Commission must include a component regarding diving vessels, awareness of divers in the water, divers-down flags, and the requirements of F.S. § 327.331.

2. A person is exempt from subsection (2) if he or she is:

- a. Licensed by the U.S. Coast Guard to serve as master of a vessel.
- b. Accompanied in the vessel by a person who is exempt from this section or who holds an identification card in compliance with this section, is 18 years of age or older who is attendant to the operation of the vessel and responsible for any violation that occurs during the operation.
- c. A nonresident who has in his or her possession proof that he or she has completed a boater education course or equivalency examination in another state, or country, which meets or exceeds the requirements of this article.
- d. Exempted by rule of the Commission.

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(C) The renter, user, and passenger of any vessel described in this section shall have on board an approved and operational personal flotation device (“PFD”) for each occupant while using or having such vessel in the water. It is a violation of this section for any such person using such vessel not to have a PFD on board.

(D) Each vendor under this article must also provide pre-ride boater safety instruction and safety information to each person who rents a vessel powered by a motor rated at ten horsepower or greater.

(E) Each rental personal watercraft or other vessel must conspicuously display the special speed limit instructions that apply within all the respective distances from the shore. The speed instructions must be easily visible to the operator of the rental personal watercraft when the operator is in the operating position on the personal watercraft.

(F) Each rental personal watercraft or other vessel must always operate with stock mufflers or with mufflers that are quieter than stock mufflers.

(G) Each person renting a personal watercraft or other vessel must read and initial that he/she understands the speed and operation restrictions placed upon operation of personal watercraft by this article and/or by Fla.Stat. ch. 327.

(H) Each rental personal watercraft or other vessel must display identifying letters and/or numbers that identify the specific personal watercraft vendor. Each identification number and/or letter, trademark, logo, and/or company name must be at least four inches in height and must contrast with its background color so as to be easily visible at a distance of 250 feet by a person with 20/20 vision.

(I) Each personal watercraft or other vessel must use a vessel corridor whenever a corridor is available. The maximum allowable speed in the corridor within 500 feet of the shore is the slowest speed at which the operator can effectively control the personal watercraft and be able to transverse the breaking water, and at all distances from 500 feet from the shore, operate at any safe speed, but not to exceed 20 miles per hour.

(J) All personal watercraft or other vessels must be operated in a reasonable and prudent manner at all times. Maneuvers which unreasonably or unnecessarily endanger life, safety, or property, including, but not limited to (1) weaving through congested vessel traffic, (2) jumping the wake of another vessel unreasonably or unnecessarily close to such vessel, (3) operating when visibility around such other vessel is obstructed, or (4) operating in a manner that requires intentional swerving at the last moment to avoid collision, constitute reckless operation and are in violation of this section and this article.

**Section 2.** If any portion, part or section of this Ordinance is declared invalid, the valid remainder hereof shall remain in full force and effect.

**Section 3.** All ordinances or parts of ordinances, in conflict herewith, are hereby repealed, to the extent of such conflict.

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**Section 4.** This Ordinance shall become effective immediately upon final passage as required by law.

**PASSED AND DULY ADOPTED**, with a quorum present and voting, this \_\_\_\_ day of \_\_\_\_\_, 2008.

First Reading: \_\_\_\_\_, 2008

Second Reading: \_\_\_\_\_, 2008

CITY OF ST PETE BEACH, FLORIDA, BY AND THROUGH THE CITY COMMISSION OF  
THE CITY OF ST PETE BEACH

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

A **Joint Workshop Meeting** of the **St. Pete Beach Environmental Stewardship Committee and the Beach Stewardship Committee** was held on **Monday, July 21, 2008** beginning at 4:00 pm in the Commission Chambers at 155 Corey Avenue, St. Pete Beach, Pinellas County, Florida.

**ENVIRONMENTAL STEWARDSHIP COMMITTEE MEMBERS PRESENT:** Jeff Churchill, Augie D'Alessio, and Eric Baird.

**MEMBERS ABSENT:** Kay McDaniel and Kathy Douglas.

**BEACH STEWARDSHIP COMMITTEE MEMBERS PRESENT:** Cleo Robertson, John Kiley, Paul Shuman and Lynda Lind.

**MEMBERS ABSENT:** George Manthos.

The subject of the meeting was Water Sports on the Sandy Beach and regulation thereof.

Mr. Bonfield presented a draft ordinance which provided for one motorized personal watercraft for each 100 ft. of beach and one motorized boat for each 300 ft. of beach.

After considerable discussion, **Cleo Robertson made a motion to recommend the proposed ordinance with an amendment to include the properties South to the Don CeSar. The motion was seconded by Lynda Lind.**

**The motion was unanimously approved by both Committees.**

#### **ADJOURNMENT**

Time being 5:12pm and no further business, this Meeting was adjourned.

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Jeff Churchill, Chairman, Environmental Stewardship Committee

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George Manthos, Chairman, Beach Stewardship Committee

ATTEST:

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Theresa B. McMaster,  
City Clerk