

ORDINANCE 18-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER 19 OF THE CODE OF OKALOOSA COUNTY; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR THE PROHIBITION OF THE SALE, DISTRIBUTION OR CONSUMPTION OF ALCOHOLIC BEVERAGES ON FLOATING STRUCTURES; PROVIDING RESTRICTION ON THE ANCHORING OR MOORING OF FLOATING STRUCTURES; PROVIDING PROVISIONS RELATING TO THE CRAB ISLAND ENTERTAINMENT AREA; REQUIRING A LICENSE AND ADMINISTRATIVE FEE; REQUIRING IDENTIFICATION ON FLOATING STRUCTURES; ESTABLISHING PENALTIES; AUTHORIZING THE REMOVAL OF FLOATING STRUCTURES; PROVIDING FOR THE SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, there is a continuing problem with the consumption of alcoholic beverages in association with waterborne recreational activities provided from Floating Structures in the waters under the jurisdiction of Okaloosa County; and

WHEREAS, the challenges faced by the County Sheriff and other emergency responders in providing service to waterborne incidents is exacerbated by the influence of alcohol consumption, particularly in association with large crowds of people; and

WHEREAS, the prohibition of the sale, distribution, or consumption from or on Floating Structures will greatly decrease the potential of damage or injury and protect the health, safety and welfare of the public; and

WHEREAS, there is a continuing problem with the mooring of Floating Structures in the waters under the jurisdiction of Okaloosa County; and

WHEREAS, the random anchoring of Floating Structures in the waters of Okaloosa County create a hazard to the safety of others that may utilize those waters; and

WHEREAS, the requirement that Floating Structure anchor moored or berthed at public or private marinas, mooring fields or public or private dock with the consent of the owner after sunset will greatly decrease the potential of damage or injury and protect the health, safety and welfare of the public; and

WHEREAS, under the provisions of Section 327.60, Florida Statutes, authorizes counties have the authority to prohibit or restrict the mooring or anchoring of Floating Structures, live-aboard vessels, or commercial vessels, excluding commercial fishing vessels, within their jurisdictions; and

WHEREAS, the requirements that Floating Structures moor or anchor at night at marinas, docks or mooring fields is in the public interest.

NOW THEREFORE, be it ordained by the Board of County Commissioners of Okaloosa County.

Section 1. Recitals. The above recitals are incorporated by reference herein.

Section 2. Creation. There is hereby created sections 19-80 through 19-82 of the Code of Okaloosa County as follow:

Sec. 19-80 - Anchoring, mooring, or berthing of Floating Structures.

(1) Applicability. This section shall be applicable within the unincorporated areas of the County and shall include all submerged lands north of the southernmost end of East Pass.

(2) Definitions.

Anchor means the act of temporarily securing a Floating Structure in the water by means of an anchor or other device and associated tackle that is carried on the Floating Structure and cast or dropped overboard.

Berth means the act of securing a Floating Structure to a slip, dock, seawall, or a fixed or floating pier or piling.

Crab Island Entertainment Area means that area as depicted on Exhibit "A".

Floating Structure means a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes, but is not limited to, an entity used as a residence, place of business or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or similar facility or entity represented as such. Floating Structures are expressly excluded from the definition of the term "vessel" as defined in sec. 327.02, Florida Statutes. Incidental movement upon water or resting partially or entirely on the bottom does not, in and of itself, preclude an entity from classification as a Floating Structure. Registration of the entity as a vessel in accordance with Chapter 327, Florida Statutes, shall not preclude an entity from classification as a Floating Structure.

Moor means the act of securing a Floating Structure in the water by means of a permanent or semi-permanent mooring system affixed to the bottom of the water body.

Sunrise shall, for purposes of this section, occur at the time set by the National Weather Service.

Sunset shall, for purposes of this section, occur at the time set by the National Weather Service.

Transition period shall mean from November 1, 2018 through October 31, 2020.

(3) *Restrictions on the anchoring or mooring of Floating Structures.* From the period of sunset until sunrise, all Floating Structures within the jurisdiction of the County shall be anchored, moored or berthed at a public or private marina, within a permitted mooring field in accordance with all applicable regulations, at a public or private dock with permission from the property owner, or on private property (including submerged lands) with the permission of the owner provided that the anchoring or mooring shall be accomplished in a manner such that the Floating Structure does not constitute a navigational hazard or interfere with vessels using the waterways. The following shall be exempt from the provisions of this section:

- (a) Houseboats in use as private residences anchored in accordance with all applicable regulations.
- (b) Dredges, draglines, or similar entities for the duration of a lawfully permitted project and when in actual transit or mobilization between projects.
- (c) Floating Structures operating within the Crab Island Entertainment Area during the time period beginning March 1 and ending October 31 of each year during the Transition Period but only under the following conditions:
 - (i) Floating Structures within the Crab Island Entertainment Area anchored or moored after dark must, at a minimum, have a 360-degree white all-around masthead light with two-mile visibility mounted such that it is not obstructed from any angle. Where this requirement conflicts with state or federal anchor lighting regulations, the more stringent regulation shall apply;
 - (ii) This exemption shall exist only during the transition period and shall sunset and no longer be effective as of November 1, 2020. At that time, all Floating Structures that operate within the Crab Island Entertainment Area shall be required to comply with subsection (3) above.

(4) Any Floating Structure operating within the Crab Island Entertainment Area shall possess and have displayed a license issued by the County allowing its operation during the period of March 1 to October 31 of each year. Such license shall be issued upon demonstration that the Floating Structure is in compliance with all laws and regulations of the United States, the State of Florida and the County. An administrative fee for the ability to operate and locate within the Crab Island Entertainment Area in the amount of \$1000 per month or for any portion of a month that the Floating Structure operates in the Area.

(5) *Owner identification required.* The name and contact information (which must at a minimum include a valid, active telephone number) of the owner shall be displayed on every Floating Structure as follows:

- (a) Letters and numbers must be bold block letters at least 3" high in a color contrasting to the portion of the structure to which they are affixed.
- (b) The information must be displayed the forward half of the structure on both sides above the waterline.

Sec. 19-81 – Sale, Distribution or Consumption of Alcoholic Beverages Prohibited

The sale, distribution, or consumption of alcoholic beverages (with or without charge) on a Floating Structure, or on or within any boundary or structure that is tethered or otherwise connected to such Floating Structure, in conjunction with any commercial activity is prohibited.

(1) In the application of this Ordinance, the following shall apply:

- (a) The term “sale” shall mean the exchange of an alcoholic beverage for anything of value.
- (b) The term “distribution” shall mean the delivery of an alcoholic beverage to another, whether for the exchange of value or not, and shall include the delivery of an alcoholic beverage to other Floating Structures or vessels or to individuals not located on the Floating Structure.

(2) This prohibition shall not apply to:

- (a) Alcoholic beverages served and consumed on Floating Structures permanently moored to a dock, wharf, or other mooring place that is accessed through upland properties on which exist lawful uses properly licensed to serve alcoholic beverages, and for which the State alcoholic beverage license includes the Floating Structure on which the beverages are to be served and provided the service of alcohol is consistent with all other provisions of law or the County Code.

- (b) The serving of alcoholic beverages during pleasure excursions (e.g., dinner cruises, sunset cruises, wildlife viewing cruises, etc) or similar functions in which all alcohol to be consumed will be consumed on board the vessel providing the excursion, and the vessel is under the command of a captain with the necessary licensure, and for which the subject business maintains all the requisite licenses and permits.
- (c) houseboats in use as private residences.

Sec. 19-82 Enforcement; penalties.

(1) The Okaloosa County Sheriff's Office shall enforce this section pursuant to Section 30.15, Florida Statutes and as otherwise provided by law. The Okaloosa County Sheriff's Office, or such other entities designated by the County, shall have the authority to issues a civil citation for a violation of these provisions.

(2) Penalties.

- (a) The violation of any provision of this section shall constitute a civil infraction and shall be punishable by a civil fine of up to five hundred dollars (\$500.00).
- (b) Each day a violation of this section occurs shall constitute a separate offense and be punishable as such.

(3) In addition to the sanctions contained herein, the County shall be authorized to take any other appropriate legal action, including, but not limited to, initiating civil actions, seeking cease and desist orders, instituting other administrative actions, and requesting temporary and permanent injunctions to enforce the provisions of this section. It is the purpose of this section to provide additional and cumulative remedies.

Sec. 19-82 - Removal of Floating Structures.

(1) Upon receipt of a complaint of a Floating Structure not anchored, moored, or berthed as provided herein, the Sheriff shall investigate and, if a violation is observed, shall affix the requisite notice to the structure. The enforcing officer shall also attempt to contact the owner or responsible party using the information provided pursuant to sec. 19-80(4), above. If the information provided pursuant to sec. 19-80(4), above, is either not posted or inaccurate, the enforcing officer is under no obligation to make further attempts to identify and contact the owner. Failure of the enforcement officer to contact the owner or responsible property does not negate a violation.

(2) After the posting of the notice, the owner shall have five (5) calendar days to remove the Floating Structure. If the Floating Structure has not been removed

within the five-day correction period, then the Sheriff's Office shall cause the Floating Structure to be removed.

(3) All costs associated with removal, towing, impounding, and administrative costs shall be the responsibility of the owner.

Section 3. Inclusion in the Okaloosa County Code of Ordinances. It is hereby directed that the provisions of this ordinance be included in the Code of Ordinances of Okaloosa County, Florida. To that end, any renumbering of the various sections is hereby authorized as necessary to achieve this directive.

Section 4. Severability. If any provision of this Ordinance is found to be invalid by a court of competent jurisdiction, then such determination shall not render the remaining provisions of the ordinance invalid.

Section 5. Effective Date. This Ordinance shall be filed with the Secretary of State within ten days of adoption and shall take effect on October 1, 2018.

PASSED AND ADOPTED in Regular Session this ____ day of _____ 2018.

BOARD OF COUNTY COMMISSIONERS
OF OKALOOSA COUNTY, FLORIDA

ATTEST:

J.D. Peacock II, Clerk

Graham W. Fountain, Chairman

APPROVED AS TO FORM:

Gregory T. Stewart
County Attorney