

ORDINANCE NO. 14- 01

AN ORDINANCE OF FRANKLIN COUNTY, FLORIDA PROHIBITING OBSTRUCTIONS ON THE PUBLIC BEACH ON ST. GEORGE ISLAND, FLORIDA; REQUIRING THE CONSPICUOUS AND CONTINUOUS POSTING AT BEACH ACCESS POINTS AND IN EACH RENTAL UNIT RENTED BY THE DAY OR WEEK, ON ST. GEORGE ISLAND, FLORIDA, A CONTINUOUSLY POSTED SIGN EXPLAINING THE "LEAVE NO TRACE" ORDINANCE PROHIBITING TENTS AND PERSONAL PROPERTY ON THE PUBLIC BEACH AT NIGHT AND WARNING BEACHGOERS THAT UNATTENDED PROPERTY LEFT WILL BE DEEMED DISGARDED BY THE OWNER AND MAY BE REMOVED AND DISPOSED OF BY THE AUTHORITIES; PROHIBITING UNATTENDED HOLES ON THE PUBLIC BEACH; AUTHORIZING THE DIRECTOR OF ADMINISTRATIVE SERVICES TO APPROVE THE FORM AND SUBSTANCE OF SUCH SIGNS; ESTABLISHING THE TIMEFRAME DURING WHICH UNATTENDED ITEMS SHALL BE PROHIBITED ON THE PUBLIC BEACH; CLARIFYING THE ORDINANCE'S INTENT TO APPLY TO UNATTENDED ITEMS OF PERSONAL PROPERTY LEFT ON THE BEACH AT NIGHT; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE.

Whereas, Franklin County has miles of public beach on St. George Island, Florida (Sometimes referred to herein as the "Public Beach"); and,

Whereas, residents and tourists use and enjoy the Public Beach on St. George Island, Florida; and,

Whereas, residents and tourists use the Public Beach on St. George Island, Florida for recreation, fishing, walking, water access and traditional uses; and,

Whereas, sea turtles use the Public Beach to lay eggs and hatch, and Franklin County desires to protect this endangered species; and,

Whereas, items of personal property left on the Public Beach unattended or overnight are obstacles for maintenance crews, interfere with the public's use, access and enjoyment of the Public Beach on St. George Island, Florida, pose safety hazards, adversely affect the beauty of the Public Beach, adversely affect tourism, adversely affects economic interests and can be an obstruction for sea turtles; and,

Whereas, during the summer season especially, hundreds of beach tents, canopies, cabanas, shading devices, chairs, ice chests, storage chests and other items of personal property, including personal property used in commerce, such as, but not limited to, tents, chairs, jetskis, paddle boards, sailboats, kayaks and other watercraft, have been left overnight on the Public Beach on St. George Island, Florida; and

Whereas, personal property left on the Public Beach on St. George Island, Florida overnight constitutes a nuisance which is contrary to the public's health, safety and welfare; and

Whereas, in order to protect and maintain the use of the Public Beach for residents, tourists, visitors, wildlife and maintenance crews, the overnight placement of items of personal property on the Public Beach must be, and is, prohibited; and,

Whereas, the personal property left overnight on the Public Beach on St. George Island, Florida is neither "lost property" nor "abandoned property" as those terms are used in Section 705.101, Florida Statutes, because such property has neither been mislaid nor disposed of on the Public Beach in a wrecked or inoperative condition, and that the regulation of personal property left on the Public Beach overnight is not preempted by Chapter 705, Florida Statutes; and,

Whereas, leaving personal property in beach access points at any time blocks public access and creates a hazard and nuisance for other persons wishing to access the Public Beach; and,

Whereas, allowing persons to relocate items of personal property overnight to a safe and appropriate landward location reasonably balances the use and enjoyments of personal property with the need to protect the public access, public health, safety and welfare and wildlife; and,

Whereas, the Director of Administrative Services should be empowered to authorize persons to leave items of personal property on the Public Beach overnight in certain limited and enumerated circumstances; and

Whereas, public trash containers, signs placed by a governmental agency on the beach and beach areas, and public items, should be allowed to remain on the Public Beach in order to further other important public interests and benefits,

NOW BE IT THEREFORE ORDAINED AS FOLLOWS:

**Section One: Purpose and Title.**

The purpose of this ordinance is to ensure the Public Beach and beach access areas are free from any obstruction by any item of personal property in order to protect public ingress, egress and use of the Public Beach, promote public safety, and to protect endangered sea turtles. This ordinance may be referred to as the “Leave No Trace Ordinance.”

**Section Two: Definitions.**

***Public Beach*** is limited to and means that area of unconsolidated material on St. George Island, Florida, that extends landward from the mean low-water line of the United States Gulf of Mexico, to the frontal dune or, where there is no frontal dune, to the line of permanent vegetation or construction, whichever is more seaward, as that Public Beach area is described and shown on the three subdivision plats of St. George Island Gulf Beaches, Units 1, 2 and 3, recorded in the public records of Franklin County, Florida.

***Beach access areas*** means those public beach access points on St. George Island, Florida identified by the County Parks and Recreation Department, including associated boardwalks, walkways, and dedicated parking areas, and the area on the Public Beach beginning at the entrance of the beach access point perpendicular with the applicable road right of way to the water’s edge.

***Beach Business*** means each lawful business which operates on any of the Public Beach located on St. George Island, Franklin County, Florida. This does not include businesses which operate on private property.

***Director Of Administrative Services*** means an employee of Franklin County, a political subdivision of the State of Florida, designated to oversee the administration of county functions and policies of behalf of the board of county commissioners of Franklin County.

***Dune*** means a mound, bluff or ridge of loose sediment, usually sand-sized sediment, lying upland of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation, and is subject to fluctuations in configuration and location. In the absence of a discernible dune, the seaward boundary of a dune will be deemed to be the line of native vegetation.

***Personal property*** means all types of personal property, including by way of example and not limitation, tents (including tent frames), canopies, cabanas, umbrellas and other shading devices, picnic tables, tiki huts, volleyball nets, tents, hammocks, beach chairs and other furniture, kayaks, canoes, catamarans, floats, sailboards, surfboards, kites, jet skis, sailboats, water cycles and other watercraft.

**Person** includes a natural person and all artificial entities, such as, but not limited to, corporations, limited liability companies, partnerships, limited partnerships, associations, trustees, receivers, legal representatives and organizations.

***Toe of the dune*** means that area just seaward and off the dune where there is no vegetation.

### **Section Three: Digging Holes on Beach.**

Holes dug on the beach are required to be attended and shall be filled prior to leaving the Public Beach.

### **Section Four: Obstructions on the Beach and Beach Access Areas Prohibited.**

- (1) It shall be unlawful for any person to leave an item of personal property unattended on any portion of the Public Beach located on St. George Island, Florida from 9:00 P.M. until 7:00 A.M. daily, except as otherwise permitted in this ordinance
- (2) It shall be unlawful for any person to leave an item of personal property unattended at anytime within any public beach access area located on St. George Island, Florida.
- (3) Any item of personal property left on the Public Beach unattended in violation

of this article shall be deemed discarded by the owner and shall become the property of Franklin County, which may dispose of the item.

(4) From 9:00 P.M. until 7:00 A.M. daily, on the Public Beach, items of personal property that are relocated as close to, but not on, the toe of the dune or native vegetation, or where there are no dunes or native vegetation, are relocated as close as practicable to an existing permanent structure or the line of buildings, will not be considered discarded by the owner, abandoned or a violation of this ordinance, provided:

- (a) Such items shall not be placed on the dune or on native vegetation;
- (b) Such items shall be stored in a neat and orderly manner;
- (c) Such items shall not inhibit access to the Public Beach from the nearest public access areas, nor obstruct access on the Public Beach, nor impact native vegetation, nor significantly affect sea turtles.
- (d) Private property owners may store items under or adjacent to their private dune walkovers or boardwalks.
- (e) Items shall not be placed on any public beach access point or within 20 feet of any public trash receptacle.

(5) Unattended items of personal property in violation of this article shall be removed from the Public Beach by Franklin County personnel or by any law enforcement officer.

(6) Unattended or abandoned items of personal property, and unattended unfilled holes in the public beach, are in violation of this article are a public nuisance.

#### **Section Five: Exceptions.**

The prohibitions contained herein do not apply to:

- (a) Trash containers;
- (b) Signs placed by a governmental agency;
- (c) Items placed by persons acting under authority of the Director of Administrative Services or other governmental agency;
- (d) Structures, including without limitation boardwalks, decks, and dune walkovers constructed and permitted by Franklin County or the State of Florida;
- (e) Items placed on the beach by persons who have authorization or a permit

to engage in marine turtle nesting research issued by the United States Fish and Wildlife Service or the State of Florida.

**Section Six: Permits.**

(1) Permits may be issued by the Director of Administrative Services or their designee for activities otherwise prohibited by this article for such periods of time and under such conditions as the Director of Administrative Services deems reasonably appropriate under the circumstances that are found to be necessary for:

- (a) Reasonable accommodation of persons with disabilities;
- (b) Adjunct to a lawfully existing activity;
- (c) For the conduct of a governmental, civic or educational activity;
- (d) For the conduct of scientific research;
- (e) For special events, or
- (f) For a beach amusement, beach business, or beach service.

(2) There shall be no fee for obtaining this permit. Such permit shall include the following:

- (a) Name and contact information of the owner or person in possession and control of the item;
- (b) Description of the item;
- (c) Location of the item;
- (d) Duration of time the item will remain in such location; and
- (e) Acknowledgement that owner or person in possession and control of the item will be liable for any impacts to federally protected species.

(3) This Ordinance is not intended to authorize any violation of Section 379.2431 Florida Statutes or any of the provisions of the Endangered Species Act. Franklin County will not be liable for any impacts to federally protected species resulting from persons leaving items of personal property on the beach and such liability will rest with the owner of such item.

**Section Seven: Leave No Trace and warning signs in rental rooms.**

In each rental unit rented by the day or week, or longer period, on St. George Island, Florida, there shall be posted or placed in a plainly legible fashion, in a conspicuous place in each rental unit for each occupancy, a sign in form and substance approved by the Director of Administrative Services:

- (1) Explaining the “Leave No Trace” ordinance prohibiting tents and personal property on the Public Beach at night; and
- (2) Warning beachgoers that any unattended tents or property left on the Public Beach at night shall be deemed discarded by the owners and become the property of Franklin County and may be removed and disposed of by the appropriate authority.

**Section Eight: Notice.**

Franklin County shall provide notice of this ordinance by posting a permanent sign located at the entry of every beach access point.

**Section Nine: Beach Vehicle Authorized**

Franklin County hereby authorizes the use of motor vehicles and trailers on the public beach of St. George Island for enforcement of this ordinance, provided that such vehicles and trailers are owned, leased or otherwise controlled by Franklin County. Such vehicles must use designated and approved dune cross-overs for ingress and egress to aforementioned public beach.

**Section Ten: Disposition and Reporting Requirements.**

All items collected for being in violation of this ordinance shall be immediately taken to the Franklin County Land Fill and there destroyed. The Franklin County Parks and Recreation Department shall collect and maintain a record of the weight of the items delivered to the land fill pursuant to this ordinance.

The Franklin County Parks and Recreation Department shall daily record and catalog a description of the type and number of all items of personal property collected for being in violation of this ordinance. These daily logs shall be consolidated into a monthly report delivered to the Franklin County Board of County Commissioners.

**Section Eleven: Repealer.**

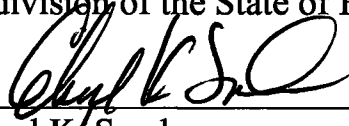
All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

**Section Twelve: Effective Date.**

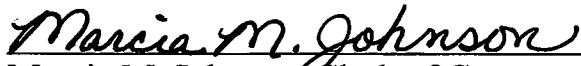
This ordinance shall take affect according to law.

Adopted on this the 5<sup>th</sup> day of August, 2014.

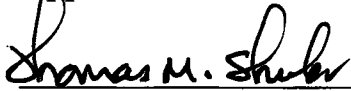
Franklin County, a political  
subdivision of the State of Florida

By:   
Cheryl K. Sanders  
Its Chairman

Attest:

  
Marcia M. Johnson, Clerk of Courts  
Ex Officio Board Secretary

Approved as to form and substance

  
Thomas M. Shuler  
Franklin County Attorney