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ORDINANCE NO. 2016-\_\_

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, PROHIBITING AND REGULATING PERSONAL PROPERTY UNATTENDED ON ATLANTIC OCEAN BEACHES WITHIN THE UNINCORPORATED AREAS OF AMELIA ISLAND; PROVIDING FOR PENALTY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 125.01, Florida Statutes, the County has the authority to adopt rules and regulations which are not inconsistent with general or special law; and

**WHEREAS**, the Board of County Commissioners of Nassau County, Florida, has been made aware by concerned citizens and organizations of concerns and issues regarding the Atlantic Ocean beaches; and

**WHEREAS**, the beach issues and concerns include, but are not limited to, safety issues, litter, potential degradation of the beach, health and welfare of beach users, and adverse effects to sea turtles and shore birds; and

**WHEREAS**, items left on the beach unattended after certain hours are obstacles for maintenance crews and official use vehicles and the general public; and

**WHEREAS**, the Board of County Commissioners seeks to insure that regulations address the health, safety and welfare of all the citizens that utilize the beach and protects the physical nature of the beach and turtles and shore birds; and

**WHEREAS**, the Florida Fish and Wildlife Conservation Commission has published guidelines to reduce impacts to sea turtles from beach furniture; and

**WHEREAS**, the Board of County Commissioners has determined that items left unattended on portions of the beach interfere with the public's use and are a safety hazard and adversely affect the physical nature of the beach and the general public's safe use of the beach and adversely affect sea turtles and other protected species and affect the general use of the beach; and

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WHEREAS, the Board of County Commissioners directed specific individuals to: conduct fact finding and receive citizen input, state input, review other county and city ordinances, receive property owners' input and association input; and

WHEREAS, the Board of County Commissioners has conducted public hearings; and

WHEREAS, the Board of County Commissioners has received recommendations from individual citizens and groups as well as homeowners association representatives; and

WHEREAS, In order to protect and maintain the beach for all the citizens that use the beach and the protected species, the Board finds that unattended items left on certain portions of the Atlantic Ocean beaches are injurious to beach goers, official use vehicles and protected species and are a public nuisance; and

WHEREAS, the Board finds that Personal Property left unattended, as described herein, on the Atlantic Ocean beaches in violation of this ordinance is neither "lost property" or "abandoned property" as the terms are used in Section 705.101, Florida Statutes; and

WHEREAS, Personal Property left unattended as described herein during a time that is prohibited shall be deemed abandoned and are a public nuisance.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Nassau County, Florida, as follows:

### SECTION 1. PURPOSE

The purpose of this Ordinance is to promote public safety, protect the beach, protect beach users, preserve the natural resources and protect species that inhabit the sand areas.

### SECTION 2. DEFINITIONS

- (1) *Beach* means the zone of unconsolidated material that extends landward from the mean low-water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves.
- (2) *Personal Property*: includes but is not limited to: tents (including tent frames), cabanas, umbrellas and other shading devises, beach chairs and other furniture, picnic tables, tiki huts,

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volleyball nets, hammocks, floats, sailboards, surfboards, kites, jet skis, sailboats, water cycles and other watercraft, beach toys, grills, nets, coolers, canoes, kayaks and general items for beach recreation, or similar items.

- (3) *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.
- (4) *Person* means any natural person, firm, partnership, association, corporation and any other legal entity.

### SECTION 3. DECLARATION OF PUBLIC NUISANCE

Personal items referenced in Section 2(2) that are left unattended are hereby declared to be a public nuisance. No person shall allow the existence of such public nuisance except as set forth herein.

### SECTION 4. PERSONAL PROPERTY PROHIBITED

- (1) Personal items left unattended on the beach located in the unincorporated area of the County beach from one (1) hour after sundown until 6:00 a.m. daily except as otherwise permitted in this article, shall be considered a nuisance and unlawful.
- (2) Any Personal Property left unattended during the hours stated in section (1) shall be deemed to be discarded and the County shall dispose of them except as provided in paragraph 3.
- (3) From one (1) hour after sundown until 6:00 a.m. daily, items of Personal Property that are relocated, with the upland owner's permission, as close to the farthest point landward of the frontal dune or line of permanent 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 a nuisance, unlawful and discarded or a violation of this ordinance provided:

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- (a) Such items are not placed on the dune or on native vegetation or under or adjacent to dune walkovers.
- (b) Such items should be stacked. Stacked furniture shall have the shortest edge facing the ocean.
- (c) Such items do not interfere with access to the beach from a public access nor obstruct access to the public beach nor impact native vegetation and are not within twenty five feet from any turtle nest or other protected species.
- (4) Items left in violation of this Ordinance are declared a public nuisance and shall be removed from the beach by County employees or contract individuals.
- (5) Those who store personal items overnight, as set forth herein, do so at their own risk. The County and the beach maintenance contractor do not assume any liability for items left one (1) hour after sundown.
- (6) The County may request written consent from any property owner where there are items placed as set forth in paragraph 3 above. Failure of the owner of record to provide written consent shall cause the items to be removed by the County or its authorized contractor(s) or employees.

### SECTION 5: PERMITS

- (1) Permits may be issued by the County Manager or designee for activities otherwise prohibited that are found to be necessary for:
  - (a) Reasonable accommodations for persons with disabilities.
  - (b) The permit application shall be on a form, approved by the County Manager, and shall include the information set forth in paragraph 2(a), (b), (c), and (d).
  - (c) The application shall be submitted at least forty-eight (48) hours prior to the issuance of the permit.
  - (d) The application shall contain the name of the individual and the address.
  - (e) The application shall include information provided by the State of Florida indicating the issuance to the applicant of an ADA approved identification.

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

- (a) Name and contact information of the owner or person in possession and contact of the owner.
- (b) Description of the item.
- (c) Location of the item.
- (d) Duration of time the item will remain in such location.

### SECTION 6. NOTIFICATION

- (1) The County shall provide notice of this ordinance by posting a permanent sign at the entry of every beach access point. The Amelia Island Tourist Development Council (TDC) shall notify all owners that are required to pay the TDC of this ordinance and encourage the owners to post notices on properties and notify renters.
- (2) Beach vendors that rent Personal Property for beach use shall remove the Personal Property from the area of the beach addressed herein each day no later than one (1) hour after sundown.
- (3) The TDC shall prepare a public information statement that provides a summary of the ordinance and publish same in the manner deemed appropriate by the Tourist Development Council. The Tourist Development Council shall provide a summary to all businesses that lease vacation rental properties and condominium associations that remit monies pursuant to the TDC ordinance and all resorts that sets forth the provisions of the ordinance.
- (4) The TDC may also provide public information materials to other businesses as may be appropriate that sell tents and/or Personal Property items that are defined in Section 2(2).

### SECTION 7. CONFLICT AND SEVERABILITY

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

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SECTION 8. ENFORCEMENT

Nassau County is authorized to enforce this ordinance and may follow the established procedures by the Sheriff's Department, County Code Enforcement Officers and through any civil complaint.

SECTION 9. PENALTY

Any violation of any provision of this code may be the issuance of a citation by a Sheriff's deputy or Code Enforcement Officer.

SECTION 10. EFFECTIVE DATE

This Ordinance shall become effective ninety (90) days from the date of adoption.

DULY ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

\_\_\_\_\_  
WALTER J. BOATRIGHT  
Its: Chairman

ATTEST AS TO CHAIRMAN'S SIGNATURE:

\_\_\_\_\_  
JOHN A. CRAWFORD

Approved as to form by the Nassau County Attorney:

\_\_\_\_\_  
MICHAEL S. MULLIN

## EXHIBIT "A"

### **CONCERNS:**

Safety and Welfare of the public.

Preservation of the natural environment.

Sea Turtles and birds.

Safety hazards based on items left on the beach and problems for normal beach clean-up and Sheriff patrol.

Nuisances created by items left on the beach and the effect on enjoyment and sharing of the beach.

### **LEGAL ISSUES:**

Public vs. Private portion of the beach.

Can we regulate the private portion of the beach areas? Depends on the basis for the regulation and what is regulated.

Reasonable notification of ordinance and penalties. Fair warning and notification.

Enforcement. Code Enforcement, Sheriff's Department. Removal of items.

State Guidelines.

### **PRACTICAL ISSUES:**

Personnel for clean-up and removal.

Costs for clean-up.

Notification and education.

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