

Sec. 54-38. - Beach permits; concession operations, equipment rentals and vendors on the beach and adjoining waters.

All beach permittees shall comply with this article. 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 permit requirement.* Any person or business enterprise of any type or kind engaged in the commercial sale of goods, services, rental, leasing, bailment or which otherwise provides recreational equipment for remuneration, including vessel(s) for the use by the public on the beach or adjoining waters of Marco Island, is required to obtain a city beach permit. A beach 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 a physical location of business, office or headquarters at the beach location where the permitted service will be rendered. If the applicant is providing equipment, boats, or vessels for public use, the applicant must have an operation, or headquarters office 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 contractual right to operate on the land adjacent to the water.
 - (2) The applicant shall have a written lease or other written agreement executed by all owners of the beachfront property affected at the time application is made for a beach permit, and such agreement shall remain in full force and effect as a condition of the beach permit. The agreement or lease shall include a term requiring compliance with all provisions of this code, including, but not limited to zoning regulations, building codes and licensing.
 - (3) The applicant must have and maintain a communications system including a telephone, either land lined or cellular and marine radio at its operation office with the functional capacity to be always alert to the whereabouts of the rental craft equipment, goods and other personal property belonging to the applicant and those that are rented to the customers.
 - (4) If the applicant is engaged in the rental of motorized or windblown equipment, or other vessel rentals the applicant must have a motorized rescue vessel 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. Rescue vessel(s) shall pass inspection by either the U.S. Coast Guard Auxiliary or the city police department 30 days prior to issuance of a city beach vendor permit. A copy of the inspection shall be submitted with the permit application to the city.

- (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 of Marco Island must be named as additional insured. An endorsement certificate must be received by the city from the insuring 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. Any motorized vessel placed in service for public use after a beach permit has been issued shall have a valid state vessel registration number affixed.
- (7) The applicant who proposes to rent recreational equipment, or vessel(s) for the use by the public on the beach or adjoining waters of Marco Island, shall be required to provide and maintain a buoy line of one or more buoys, designating the 750-foot offshore measurement from the area of operation of the beach vendor. The buoy(s) shall be placed 750 feet offshore upon the start of the business operations and pulled in and out of the Gulf waters when business operations ends.
- (8) The applicant shall provide an equipment removal plan to remove all equipment located along the beachfront in the event of a Category 1 or greater storm event, or if a tropical storm warning is declared. The applicant(s) removal plan shall be reviewed annually as part of the beach permit, and the information provided shall indicate which beach access will be necessary to remove equipment, an estimate of the time needed to remove equipment, and where equipment will be stored and/or secured prior to and during the storm event.

(b) *Boater safety.*

- (1) A livery, beach permittee, or marina may not knowingly lease, hire, or rent a vessel to any person:
 - a. When the number of persons intending to use the vessel exceeds the number considered to constitute the maximum safety load for the vessel as specified on the authorized persons capacity plate of the vessel.
 - b. When the vessel does not contain the required safety equipment required under this section and F.S. § 327.50.
- (2) When the vessel is equipped with a motor of ten horsepower or greater, the livery, beach permit holder or marina shall provide a comprehensive pre-operation instruction briefing to all operators of rental vessels regardless of age and prior maritime training internal and

external to a livery or marina that include, but need not be limited to, all the topics included on the list provided to each livery or marina by the city police department.

- a. The pre-operation instruction briefing shall be documented on a form approved by the police department prior to use;
 - b. Any such form shall be retained for a period of six months;
 - c. Any such form shall be provided to the police department or any city staff, or other law enforcement agency, upon request.
- (3) All renters, users, and passengers of any vessel described in this section shall initial and sign a form attesting that they have completed, understood, and will comply with all conditions set forth in the form. The livery or marina operator(s) who gave the pre-operation safety briefing are also required to co-sign the form attesting that they have provided all operators with the required pre-operation safety briefing.
- (4) Any person delivering the pre-operational safety briefing on behalf of the livery or marina shall have:
 - a. Successfully completed a boater safety course approved by the National Association for State Boating Law Administrators (NASBLA) and this state.
 - b. A copy of the documentation attesting to the completion of this course must be maintained by the livery or marina during the person's employment, and for six months thereafter.
 - c. All liveries, beach permit holders and marinas shall provide any requested documentation relating to an employee's competency to instruct the pre-operational safety briefing to the police department, city staff, or any other law enforcement agency upon request.
- (5) The livery, beach permit holder or marina shall display boating safety information in a place visible to the renting public. The commission prescribes by rule pursuant to F.S. ch. 120, the contents and size of the boating safety information to be displayed.
- (6) If a rental vessel is involved in a boating incident or accident, which involves personal injury or significant property damage within the city, the livery or marina shall immediately notify the police department upon notice of the accident.
- (c) The vendor shall provide all renters, users, and passengers 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 life vest onboard.
- (d) Each rental personal watercraft 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 person watercraft.

- (e) Each rental personal watercraft must always operate with stock mufflers or with mufflers that are quieter than stock mufflers.
- (f) Each rental personal watercraft 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.
- (g) All personal watercraft must be operated in a reasonable and prudent manner at all times. Maneuvers which unreasonably or unnecessarily endanger life, safety, or property are prohibited, including, but not limited to:
 - (1) Weaving through congested vessel traffic;
 - (2) Jumping wake of another vessel unreasonably or unnecessarily close to such vessel;
 - (3) Operating when visibility around such other vessel is obstructed;
 - (4) Operating in a manner that requires intentional swerving at the last moment to avoid collision.

(Ord. No. 98-12, § 7, 9-8-1998; Ord. No. 02-30, § 7, 10-21-2002; Ord. No. 08-14, § 2(8), 10-20-2008; Ord. No. 24-15, § 2(Exh. A), 9-9-2024)