

1 EXHIBIT 1

2
3 ORDINANCE NO. 2024-

4
5 AN ORDINANCE OF THE MAYOR AND CITY COMMISSION
6 OF THE CITY OF HALLANDALE BEACH, FLORIDA,
7 AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES
8 ENTITLED, "PARKS AND RECREATION," SECTION 16-1,
9 "DEFINITIONS" FOR COMMERCIAL ACTIVITY; CREATING
10 ARTICLE III, ENTITLED "PUBLIC BEACHES," TO
11 PROMULGATE RULES AND REGULATIONS RELATED TO
12 CITY BEACHES, INCLUDING BEACH CHAIR SERVICES;
13 PROVIDING FOR CONFLICT; PROVIDING FOR
14 CODIFICATION; PROVIDING FOR SEVERABILITY; AND
15 PROVIDING AN EFFECTIVE DATE.
16

17
18 **WHEREAS**, the City of Hallandale Beach (the "City") oversees approximately a mile
19 of public shoreline, home to thousands of visitors every year; and
20

21 **WHEREAS**, Article X, Section 11, of the Florida Constitution states, "The title to lands
22 under navigable waters, within the boundaries of the state, which have not been alienated,
23 including beaches below mean high water lines, is held by the state, by virtue of its
24 sovereignty, in trust for all the people; and"
25

26 **WHEREAS**, the City is authorized by Florida Law to operate and regulate the public
27 beaches of the State within the City's jurisdiction; and
28

29 **WHEREAS**, the public trust doctrine requires that governmental regulation of
30 sovereign beach lands be in furtherance of the health, safety, and welfare of all people; and
31

32 **WHEREAS**, the Hallandale Beach Code of Ordinances currently prohibits commercial
33 activity at the beach without prior approval from the City; and
34

35 **WHEREAS**, the City Commission desires to enact an ordinance and administrative
36 policy to regulate conduct on the public beach to align with current demand and better serve
37 the community; and
38

WHEREAS, the City Commission has determined there is a need to balance the needs of residents living on property adjacent to the beach with the needs of the general public and the public use of the beach; and

WHEREAS, the Mayor and City Commission have determined that the proposed amendments are in the best interest of the City of Hallandale Beach and its residents.

**NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION
OF HALLANDALE BEACH, FLORIDA:**

SECTION 1. The foregoing “Whereas” clauses are confirmed as true and incorporated herein.

SECTION 2. Chapter 16, “Parks and Recreation,” Section 16-1, “Definitions” is hereby amended as follows:

Sec. 16-1. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial activity shall mean the sale, service, or solicitation of any item for a fee or donation, tangible or intangible, including but not limited to food or beverages; the charging of admission; the charging of fees for any service, entertainment, or amusement. ~~Commercial activity shall be inclusive of providing beach furniture as a part of a yearly fee or complimentary service to a condominium resident or guest.~~

SECTION 3. Chapter 16, “Parks and Recreation,” ARTICLE III, “PUBLIC BEACHES,” is hereby enacted as follows:

ARTICLE III- Public Beaches.

Sec. 16-20- Purpose and Intent.

The purpose and intent of this article is to establish reasonable regulations that will protect the public investment in the beaches, protect public and private infrastructure, and minimize

expenditures of public funds due to adverse impacts associated with natural disasters and public conduct. These regulations are intended to encourage growth and vitality of public beaches, preserve wildlife, and prevent harm or degradation of dunes.

Sec. 16-21- Definitions.

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) Beach Equipment used interchangeably with Beach Chairs and shall include chairs, umbrellas, tables and storage containers used on the beach.

(b) Beachfront Chair Service— Providing Beach Equipment to beach patrons. The category is limited to operations storing equipment on the beach or attempting to set up furniture on the beach prior to a request from a beach patron (pre-setting).

(c) Concessionaire means Any Upland Property (should the property be directly providing the service), or Upland Property's Third-Party Operator, authorized to operate a Beachfront Chair Service.

(d) Courtesy Chair Service means a Beachfront Chair Service operation providing beach furniture as part of a yearly fee or complimentary service to an Upland Property's residents or guests. A service charging a per-use fee is excluded from the definition of a Courtesy Chair Service and is not permissible pursuant to a Courtesy Chair Service Permit.

(e) Emergency response path shall mean the beach area located eastward of the upland property line and designated for the purpose of providing access for emergency response personnel and enforcement.

(f) Public beach shall mean land that is seaward of the erosion control line, inclusive of all easements and rights-of-way within the area utilized for public beach purposes.

(g) Storing shall mean the stacking of chairs or equipment upon the beach during the day or overnight.

(h) Upland Property shall mean the lot of land adjacent to, and immediately westward of, the public beach.

(i) Upland Property Owner or Owner shall mean the authorized representative of the legal owner(s) of the Upland Property. An association or other entity may be authorized to act as representative for all owners of an Upland Property, but must certify that it has obtained the legal authorization to act on behalf of and bind all owners of the Upland Property. An application will only be accepted from a single owner/representative authorized to act on behalf of all owners of the Upland Property.

123
124 **Sec. 16-22- Authority to regulate public beaches.**
125

126 The city shall have the right to regulate the use of all public beaches within the city limits and
127 the conduct of all persons using same, consistent with applicable federal and state
128 regulations. All ordinances of the city regulating the conduct of persons on land shall apply to
129 persons in the water, insofar as same are properly applicable.
130

131
132 **Sec. 16-23- Conduct on Beaches**
133

134 (a) Prohibited acts.
135

136 (1) It shall be unlawful for any person to surfboard, sandsurf, spear fish, scuba
137 dive, except within a designated area; to build fires, allow animals to come upon
138 the beach, drink alcoholic beverages on the beach, or throw bottles or other
139 litter upon the public beaches.
140

141 (2) It shall be unlawful for any person to disregard "no swimming" instructions
142 when posted by the city lifeguard.
143

144 (3) It shall be unlawful for any person to disregard the reasonable directions of
145 a city lifeguard engaged in enforcing any of the beach regulations.
146

147 (4) It shall be unlawful for any person to camp or sleep overnight on the public
148 beaches.
149

150 (5) Vehicular traffic is prohibited on the public beaches.
151

152 (6) Fishing at the public beaches within the restricted swim areas is prohibited
153 between the hours of 8:00 a.m. to 6:00 p.m.
154

155 (7) Swimming at the public beaches is prohibited between the hours of
156 sundown and sunrise.
157

158 (8) No person owning or having charge, care, custody or control of any animal
159 shall cause, permit or allow the animal into or upon any beach in the city;
160 however, this provision shall not apply to guide dogs as specified in state law.
161

162 (9) No person shall engage in commercial activities on the public beach. This
163 includes the pre-setting of beach equipment on the beach for the use of
164 another, except as permitted by this Chapter.
165

166 (10) It shall be unlawful for any person to leave items or equipment on the
167 beach overnight, except as authorized, in writing, by the City. Any such items
168 or equipment will be deemed abandoned and may be discarded as junk or

169 abandoned property.

170
171 (b) Posting regulations. Regulative signs shall be posted at appropriate intervals on
172 the beach area.

173
174 (c) Except as otherwise provided, all rules and regulations applicable to city parks are
175 applicable to public beaches.

176
177 (d) Closing in an emergency.

178
179 (1) The City Manager and Chief of Police, or their designee, are granted the
180 authority to declare an emergency situation and close public beaches in the
181 interest of public safety due to emergencies such as severe storms, hurricanes,
182 high water, etc., or civil disasters.

183
184 (2) If an unlawful, riotous or tumultuous assembly exists, or such assembly as
185 is likely to result in a breach of the peace, or in such instances where the chief
186 of police or his command duty officer shall have reasonable cause to believe
187 that such assembly will occur, the chief of police or any police operations officer
188 shall have the authority to declare the public beach and immediately adjacent
189 public rights-of-way closed and shall thereafter order all persons to immediately
190 disperse and leave the area; and the area shall remain closed until the chief of
191 police shall determine that the danger no longer exists.

192
193
194 **Sec. 16-24- Sea Turtle Protection Standards.**

195
196 (a) Purpose. The purpose of this section is to reduce the impacts of artificial coastal
197 lighting on threatened and endangered sea turtles that nest on the beaches of
198 Hallandale by restricting artificial lighting and other activities that disorient turtle
199 hatchlings, causing them to crawl toward land rather than the ocean.

200
201 (b) Prohibited activities. The following activities involving direct illumination of portions
202 of the beach are prohibited on the beach at nighttime during the nesting season for
203 the protection of nesting marine turtle females, nests, and hatchlings:

204
205 (1) The operation of all motorized vehicles, except emergency and law
206 enforcement, or emergency beach maintenance vehicles or those
207 permitted on the beach for marine turtle conservation and/or research.

208
209 (2) The building of campfires or bonfires.

210
211 (3) Fireworks displays, except those that have pre-approved city event
212 permits and, if applicable, a permit from the Florida Department of
213 Environmental Protection ("DEP").

215
216 **Sec. 16-25- Beach equipment placement.**
217

218 (a) Beach Equipment shall not be placed in a manner that will inhibit access to the
219 public beach pedestrians and emergency vehicles, nor impact native vegetation, nor
220 affect sea turtles or other wildlife. No beach equipment may be staged or stored within
221 twelve (12) feet of a lifeguard tower. All persons must comply immediately with any
222 request from a Code Enforcement Officer, Police Officer, or lifeguard to relocate any
223 equipment that obstructs the view of the lifeguards from the tower. If beach equipment
224 is provided pursuant to a permit, it must be placed in accordance with the permit at all
225 times.
226

227
228 **Sec. 16-26- Beachfront Chair Service Operations; permit required.**
229

230 (a) No person or entity shall operate a Beachfront Chair Service Operation except
231 as follows:
232

233 (1) An Upland Property may operate or contract for the operation of a Courtesy
234 Chair Service upon obtaining a permit from City; or
235

236 (2) Pursuant to a contract with the City.
237

238 **Sec. 16-27- Courtesy Chair Service Permits; enforcement**
239

240 (a) All Courtesy Chair Service Operations require a valid Courtesy Chair Permit.
241 Any Courtesy Chair Service Permit granted shall not be construed to vest any
242 additional rights upon the Upland Property nor the Concessionaire that do not
243 otherwise exist, except for the privilege of temporary use of the beachfront in
244 accordance with the conditions and requirements set forth in the permit and all other
245 applicable City, County, State, and Federal laws. Owners and Concessionaires are
246 hereby notified that all beaches within the City are public and, as such, chair services
247 must not restrict, or appear to restrict, access or in any way limit the public nature or
248 ambiance of the beachfront.
249

250 (b) The City Manager shall establish an administrative policy for the issuance and
251 administration of Courtesy Chair Service permits to regulate the placement of beach
252 equipment on the public beach and related activities in a manner that protects public
253 use, ensures public safety, and protects the natural resources.
254

255 (1) A Courtesy Chair Service permit shall be issued by the city in accordance
256 with the administrative policy issued by the City Manager, but in no case shall
257 be issued if the city determines that granting such permit:
258

259 a. Unduly impedes governmental business or public access;
260

b. Imperils public safety; or

c. Violates any public or local policy, state or federal law.

(2) Beachfront concessionaries shall obtain any applicable local business tax receipt, certificate of use, and other required licenses or permits from Broward County, the State of Florida, and federal agencies, prior to the issuance of the permit.

(3) Fees for the issuance of the permit are hereby established and shall be set by resolution or as approved by the commission in the fee booklet.

(4) Permits shall be issued for annual term for a set fee, with permits running from January 1st to December 31st. Applications to renew permits must be submitted on an annual basis by December 1st in order to remain in compliance with this Code.

(5) All Courtesy Chair Service Permits are granted on a revocable basis. The City may, through the City Manager, and for its convenience and without cause, terminate any authorization, Permit or Agreement at any time, by giving the Concessionaire and Upland Property Owner thirty (30) days written notice of such termination.

(c) Enforcement; penalties for offenses.

(1) The following monetary penalties shall be imposed for a failure to comply with the provisions of the permit:

a. First offense carries a monetary penalty of \$250.00.

b. Second offense for the same violation within a twelve (12) month period carries a monetary penalty of \$500.00.

c. Third offense for the same violation within a twelve (12) month period will result in termination of permit. No refunds shall be issued for any remaining portion of a permit's term upon its termination.

(2) Such penalties are in addition to and separate from any violations issued by the City for noncompliance with other sections of City code.

(3) If the City finds a violation of this section, the City may issue a Notice of Violation to the violator. The Notice of Violation shall inform the violator of the nature of the violation, amount of penalty for which the violator is liable, and instructions and due date for correcting the violation and paying the

penalty.

(4) Concessionaires are under contract with and the control of the Upland Property Owner. It is the responsibility of the Upland Property Owner to ensure compliance with the permit and this Code. It is the responsibility of the Concessionaire to advise the Upland Property Owner of any Notices of Violation issued by the City. If a Concessionaire, or any of its employees or independent contractors, is the named violator, and after issuance of the Notice of Violation, the Concessionaire fails to correct the violation and/or pay the penalty by the stated due date, the Permit may be revoked by the City Manager in accordance with the following:

a. A Concessionaire, or any of its employees or independent contractors, is the named violator in any Notice of Violation; and

b. The Concessionaire, after issuance of the Notice of Violation, fails to pay the fine by the stated due date; or

c. The Concessionaire, after issuance of the Notice of Violation, fails to correct the violation by the stated due date; or

d. The Concessionaire has received a total of three (3) notices of violation, regardless of reason, during the previous twelve (12) month period.

(5) A notice of suspension, termination or revocation will be sent to the Upland Property Owner and will state the reason(s) for the suspension or revocation.

(6) The suspension or revocation shall be effective ten (10) days after the City sends written notice thereof; provided, however, the City Manager or designee may order the suspension or revocation to be effective at any earlier time, including the time at which the notice of violation is issued, if the City Manager or designee, in his/her sole discretion, makes a determination that the continued operation of the Courtesy Chair Service Permit is a danger to public health, welfare or safety.

(d) Appeal. The denial, termination, or revocation of a permit may be appealed to the City Commission by submitting a written request for appeal to the Office of the City Manager within thirty (30) days of the date of the written notice provided by the City. Any request for appeal shall be considered by the City Commission at the next regularly scheduled meeting occurring no sooner than fourteen (14) days from receipt of the request. Except for terminations pursuant to (b)(5) above, if the notice provided by the City requires suspension of the services by a date sooner than the date of the Commission meeting at which the appeal will be heard, the Concessionaire must suspend services from that date until the item is considered by the commission. For

terminations pursuant to (b)(5), the Concessionaire may continue to provide services until the appeal is considered by the City Commission.

SECTION 4. Chapter 19, "offenses and Miscellaneous Provisions," Section 19-3, "Conduct on beaches," is hereby repealed and shall be designated as "Reserved."

SECTION 5. Conflict. All ordinances or portions of the Code of Ordinances of the City of Hallandale Beach in conflict with the provisions of this ordinance shall be repealed to the extent of such conflict.

SECTION 6. Severability. Should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

SECTION 7. Codification. It is the intention of the Mayor and City Commission that the provisions of this ordinance be incorporated into the Code of Ordinances; to effect such intention the words "ordinance" or "section" may be changed to other appropriate words.

SECTION 8. Effective Date. This Ordinance shall become effective on January 1st.

PASSED ON first reading _____, 20__.

PASSED AND ADOPTED ON second reading on _____, 20__.

CITY OF HALLANDALE BEACH

JOY F. COOPER
MAYOR

SPONSORED BY: MAYOR JOY F. COOPER

ATTEST:

388 JENOREN GUILLEN
389 CITY CLERK
390
391
392 APPROVED AS TO LEGAL SUFFICIENCY
393 AND FORM:
394
395
396 _____
397 JENNIFER MERINO
398 CITY ATTORNEY
399
400
401
402