



CITY COUNCIL AGENDA ITEM	
TO:	Mayor and City Council
FROM:	Michael J. Staffopoulos, City Manager
DATE:	11/17/2023
SUBJECT:	Ordinance No. 2023-8207 Amending Ch. 6, Art. III, Sec. 6-57, City Code of Ordinances

BACKGROUND

After receiving word from the City's Police Department of an increase in the numbers of persons jumping from the Pier into the Atlantic Ocean, on June 20, 2023, via Ordinance No. 2023-8198, the City Council amended City Code of Ordinances Sec. 6-45 instituting a prohibition against jumping off of the Pier into the Atlantic Ocean Beach. At that time, the City Council voiced concern over the penalties associated with violations of Chapter 6; specifically, that the fine stated in Sec. 6-57 is not adequate enough to deter individuals from engaging in prohibited acts.

At the City Council Briefing on November 13, 2023, the City Attorney presented the City Council with three options for discussion and consideration of pier penalties. It was the consensus of the City Council to increase the \$50 maximum penalty in Sec. 6-57 to up to \$500, and after discussion with the appropriate representative of the City of Jacksonville, consider a stand-alone ordinance formalizing additional penalties.

FINANCIAL IMPACT

The financial impact of this chapter revision cannot be determined at this time due to the indeterminate number of fines that may arise from enforcement actions. Staff will monitor all financial transactions to ascertain any emerging trends.

REQUESTED ACTION

Approve/Disapprove Ordinance No. 2023-8207 on the first reading amending Chapter 6 "Beaches and Bulkheads", Article III "Use of Atlantic Ocean Beach", Section 6-57 "Enforcement; citation form; hearing; penalties", and schedule a second reading for December 18, 2023

ATTACHMENTS

1. Ordinance No. 2023-8207

Introduced by: _____
First Reading: _____
Second Reading: _____

ORDINANCE NO. 2023-8207

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING CHAPTER 6 “BEACHES AND BULKHEADS,” ARTICLE III “USE OF ATLANTIC OCEAN BEACH,” SECTION 6-57 “ENFORCEMENT; CITATION FORM; HEARING; PENALTIES,” TO INCREASE PENALTIES FOR VIOLATING CHAPTER 6; PROVIDING FOR LEGISLATIVE FINDINGS, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, SCRIVENER’S ERRORS, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, it is the desire of the City Council of Jacksonville Beach to maintain a safe environment for the public while visiting to or on those portions of the Atlantic Ocean Beach located within the City of Jacksonville Beach (the “City”); and

WHEREAS, the City’s Police Department has noted an increase in the number of persons jumping from the Jacksonville Beach Pier (the “Pier”) into the Atlantic Ocean, thereby creating unsafe physical conditions for the jumper, as well as bystanders who may be lawfully swimming, playing, or standing in the waters of the Atlantic Beach in the vicinity of the Pier; and

WHEREAS, on June 20, 2023, via Ordinance No. 2023-8198, the City Council amended the City Code of Ordinances Sec. 6-45, “Prohibited activities and items on Atlantic Ocean Beach,” to include a prohibition against jumping off of the Pier into the Atlantic Ocean; and

WHEREAS, it is the consensus of the City Council that the current penalties associated with violations of Chapter 6 are not adequate enough to deter individuals from engaging in the often dangerous activities included in the chapter’s prohibited acts; and

WHEREAS, the City Council further finds that the restrictions created by this Ordinance are necessary for the health, safety, and welfare of City residents and the public at large, and is in the general best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. RECITALS AND LEGISLATIVE FINDINGS. The above recitals and legislative findings are ratified and made a part of this Ordinance.

SECTION 2. CHAPTER 6 “BEACHES AND BULKHEADS,” ARTICLE III “USE OF ATLANTIC OCEAN BEACH,” SECTION 6-57 “ENFORCEMENT; CITATION FORM; HEARING; PENALTIES” IS HEREBY AMENDED AS FOLLOWS¹:

¹ ~~Strikethrough~~ text indicates deletions, underline text indicates additions.

(a) *Enforcement.* Any City of Jacksonville Beach law enforcement officer is authorized to issue a civil citation to any violator of this chapter. The citation shall indicate the penalty established herein for violation of this chapter. A person cited for a violation of this chapter shall sign and accept a citation indicating his/her receipt of a copy of the citation. Citations issued for violation of any provision of this chapter shall be enforced in proceedings under the Special Magistrate hearing procedures of chapter 2, article VI of the City Code of Ordinances and are solely within the power, authority, and jurisdiction of the city's special magistrate. The city's special magistrate shall have jurisdiction and authority to hold hearings for contests to citations, receive and evaluate evidence, to make a determination based upon the preponderance of the evidence as to whether the violations(s) listed in the citation were committed, and impose fines and fees against the violator consistent with this chapter. The decision of the special magistrate shall be the final action by the city. Formal rules of evidence shall not apply at the hearing and any relevant evidence may be admitted as deemed by the special magistrate. The hearing shall be conducted in a manner to ensure that procedural and substantive due process is afforded to both parties.

(b) *Citation form.* The citation form shall contain language providing notice of the following:

- (1) Name of person alleged to have violated this section.
- (2) Description of the alleged violation.
- (3) Date, time and place of the alleged violation.
- (4) Witnesses, if any.
- (5) Name of officer charging the violation.
- (6) The date, time and location of the scheduled special magistrate hearing on the offense charged.

The citation shall also contain a space where the alleged violator of this section may sign to indicate that he/she received a copy of the citation and shall also indicate the penalty established herein for violation of this section.

(c) *Penalties.* Any person found guilty of violating a section of this chapter shall be guilty of a misdemeanor and may be punished able by charged a fine not to exceed \$500.00. Any person who willfully refuses to accept and sign a citation shall be assessed an additional \$200.00 fine. Any person charged with violation of this chapter may:

- (1) Pay the penalty set forth in the citation, either by mail or in person, within ten (10) days of the date of receiving the citation, made payable to City of Jacksonville Beach, and paid at the City of Jacksonville Beach Police Department or utility billing office on the first floor of the City of Jacksonville Beach City Hall; or
- (2) Appear at the scheduled special magistrate hearing to contest the charge.

If the person cited elects to pay the penalty set forth in subsection (a) above, he/she shall be deemed to have admitted the violation and to have waived his/her right to a hearing on the issue of violation of this section. Each day any violation of any provision of this section occurs shall constitute a separate offense that may be fined. Violation fees must be paid at the City of Jacksonville Beach Police Department or at the utility billing office on the first floor of the City of Jacksonville Beach City Hall.

(d) *Hearing.* If the alleged violator elects to not pay the citation fine and opts to request a hearing before the special magistrate, then the violator must provide written notification of such request to the City of Jacksonville Beach Police Department and the city attorney, no later than thirty (30) days from the date of the citation. Failure to timely submit the written request shall constitute waiver of the hearing option by the alleged violator and the city may proceed with enforcement and collection of the penalty. Upon receipt of the request for a hearing, the city clerk's office shall issue a notice of hearing date to the person that requested the hearing. Any person who requests a hearing and does not appear in accordance with the notice shall be sent notice by the police department to pay within ten (10) days the doubled fine plus ten dollars (\$10.00) for the cost of administrative services. After the requested hearing, the special magistrate shall make a determination as to whether a violation has been committed and may impose a fine in accordance with this section and Florida law, plus court costs. An election to request a hearing constitutes a waiver of the right to pay the penalty indicated on the citation, and the special magistrate, after the hearing and upon making a determination that a violation has been committed, may impose a fine, plus court costs for each violation.

SECTION 3. CONFLICTING ORDINANCES. That all ordinances, resolutions previously adopted by the City in conflict with this Ordinance, or parts thereof, are repealed to the extent inconsistent herewith.

SECTION 4. SEVERABILITY. If any section, subsection, clause, or provision of this Ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this Ordinance.

SECTION 5. SCRIVENER'S ERRORS. The City Attorney may correct scrivener's errors found in this Ordinance by filing a corrected copy of this Ordinance with the City Clerk.

SECTION 6. CODIFICATION. The City Council intends that this Ordinance will be made a part of the City of Jacksonville Beach Code of Ordinances.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect and be enforceable in all aspects immediately upon final reading and approval by the City Council for the City of Jacksonville Beach as authenticated herein.

AUTHENTICATED THIS _____ DAY OF _____, A.D., 2023.

Christine H. Hoffman, Mayor

Sheri Gosselin, City Clerk