

EMERGENCY ORDINANCE 2020-17

AN EMERGENCY ORDINANCE OF FRANKLIN COUNTY, FLORIDA, PROHIBITING AND MAKING UNLAWFUL THE DISOBEDIANCE OF A LAWFUL ORDER OF THE SHERIFF'S DEPARTMENT TO LEAVE THE GULF OF MEXICO OR ST. GEORGE SOUND WHEN DOUBLE RED FLAGS ARE DISPLAYED; PROVIDING FOR PENALTIES AND ENFORCEMENT; REPEALING ORDINANCES OR PARTS OF OTHER ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Department of Environmental Protection has adopted a uniform warning flag program for use by Florida's beachfront communities, which system is intended to minimize the risks of drowning or serious injury; and,

WHEREAS, the County prominently displays signs to educate beachgoers of the flag system and the hazards signified by such flags, and flies flags to indicate the conditions of the Gulf of Mexico; and,

WHEREAS, double red flags signify that the water is closed to the public; and,

WHEREAS, the County has experienced tourists ignoring the double red flag water closure warning, which in recent years has resulted in deaths by drowning; and,

WHEREAS, persons who enter the water under double red flag conditions risk not only their own lives, but the lives of those attempting to rescue distressed swimmers; and,

WHEREAS, on August 25, 2020, one such rescuer, Mr. Brian Stephen Smith, with the County's Volunteer Fire Rescue, gave his life saving a parent and child in the Gulf from certain peril during a time when double red flags were displayed; and,

WHEREAS, there currently exists no legal requirement for persons in the Gulf of Mexico to get or stay out of the water upon instruction from the Sheriff's Department; and

WHEREAS, the County finds that for the protection of the health, safety and welfare of tourists and others swimming in the Gulf of Mexico and St. George Sound and to reduce the risk to persons attempting to rescue swimmers in the water during double red flags, refusal to obey the order of the Sheriff or his deputies to get out and stay out of the Gulf of Mexico and St. George Sound during double red flags shall be unlawful;

WHEREAS, Franklin County has declared that an emergency exists and that the immediate enactment of this Ordinance is necessary and waives the usual notice requirements of s. 125.66 (2),

NOW THEREFORE BE IT ORDAINED THAT:

1. It is the intent of this ordinance to authorize the Franklin County Sheriff's Department to order persons to stay out of or come in from the Gulf of Mexico or St. George Sound when double red flags are flying.
2. Failure to obey an order to stay out of or come in from the Gulf of Mexico or St. George Sound by the Sheriff or his deputies, when reasonably known to be such an official, is hereby prohibited and made unlawful. Such order shall be made for the purpose of ensuring the safety of persons using the beach or waters of the Gulf of Mexico and St. George Sound, including those attempting to rescue distressed swimmers. Any person violating any provision of this section shall be punished as follows:
 - i. First Offense: verbal warning
 - ii. Second Offense: Following a reasonable opportunity to comply with the verbal warning, misdemeanor of the second degree punishable by a fine of no more than \$500, or a sentence of not more than sixty (60) days in jail, or both.
 - iii. Third and subsequent Offenses: Misdemeanor of the second degree punishable by a fine of no more than \$500, or a sentence of not more than sixty (60) days in jail, or both.
3. EXCEPTION: This ordinance shall not apply to persons attached by a leash to a surfboard. A surfboard means a fiberglass, epoxy, closed-cell neoprene or closed cell Styrofoam instrument with one or more fins or skegs attached to or inserted through the bottom, including windsurf boards and sailboards, but does not include rubber rafts, floats, belly boards, skim boards or boogie boards.
4. SEVERABILITY: If any part of this ordinance should be found to unlawful and unenforceable, then the Court shall strike such unlawful portion and enforce the remainder of this ordinance.
5. REPEALER: All ordinances, or parts of such ordinances, in conflict with this ordinance are hereby repealed.
6. EFFECTIVE DATE: This ordinance shall take effect upon being filed with the Department of State.

On this the 1st day of September, 2020, this ordinance was adopted by unanimous vote of the Board of County Commissioners of Franklin County, Florida, during a duly declared local state of emergency due to the COVID 19 pandemic and the death of Mr. Brian Stephen Smith.

FRANKLIN COUNTY, a political
Subdivision of the State of Florida

By: Noah Lockley Jr.
Noah Lockley, Jr.,
Its Chairman

Attest:

By: Marcia M. Johnson
Marcia M. Johnson, Clerk of Court



Approved as to form and substance:

By: Thomas M. Shuler
Thomas M. Shuler, County Attorney