

Ordinance 25-1273

Town of Carolina Beach
Town Council



AN ORDINANCE TO AN ORDINANCE TO AMEND CHAPTER 28 WATERCRAFT, BEACHES AND COASTAL PARKS, TO ADDRESS SAFETY AND HEALTH WITH BEACH SERVICES.

Chapter 28 WATERCRAFT, BEACHES AND COASTAL PARKS

Sec. 28-1. Allowable vending and beach services on public property within the town or managed by the town; restrictions.

(a) Non-motorized carts.

- (1) A maximum of ten permits shall be authorized by the Town to sell food, beverages and sundries.
- (2) Each permit shall allow one non-motorized cart to access the municipal beach strand and/or Freeman Park.

(b) Motorized vehicles (Freeman Park only).

- (1) No more than six permits shall be authorized by the town to sell fishing equipment, food, beverages, camping equipment, firewood, sundries, and beach apparel, such as hats, t-shirts and sunglasses.
- (2) Each permit shall allow a maximum of one vending vehicle accessing Freeman Park.
- (3) All vending vehicles in Freeman Park shall display a valid Freeman Park entry pass.
- (4) Only standard operational 4x4 vehicles that are legally licensed, insured, properly inspected, have a Freeman Park permit, and in compliance with state statutes, particularly the operational and safety standards, shall operate under a beach services permit within Freeman Park. No golf carts, gators, motorcycles, ATVs, trailers (including boats and campers) shall be utilized for beach services operations within Freeman Park unless otherwise approved by the Town Manager or his designee.

(c) Regulations for all activities.

PURPOSE: Beach Services is an allowance to help facilitate the public enjoyment of the beach with equitable access for all. Beach services should not impede general public access to the beach.

- (1) Deliveries and vending of alcoholic beverages is strictly prohibited.

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- (2) Hours of operation shall be limited from sunrise to sunset [unless otherwise denoted](#)
 - (3) Permit holders shall be responsible for depositing trash generated into trash receptacles during all hours of the operation.
 - (4) No outdoor storage of equipment shall be allowed except as permitted under subsection (d) of this section.
 - (5) All food products or beverages must be permitted by the New Hanover County Health Department or other permitting agencies as applicable. The applicant shall provide a copy of the certificate or the exemption from the county environmental health department and maintain a copy displayed while vending.
 - (6) Any subsequent ordinance changes to this section that are adopted by town council shall apply to this permit.
 - (7) All permit holders shall maintain a log of activities stating at a minimum: date, time started, time stopped. This log shall be available for inspection by the department of planning and development on an annual basis upon request for a permit renewal. If operations did not occur on 50 percent or more of the days between June 1 and August 31 then the permit shall automatically require town council review prior to reinstatement.
 - (8) A copy of the issued permit shall be available at all times while operating.
 - (9) No permit holder shall operate in a stationary location for more than 30 minutes.
 - (10) Absolutely no beach activities, equipment, or business operations are allowed on the beach at any time within 20 feet from the easternmost edge of the dune slope or vegetative line. Depending on conditions, emergency personnel may impose greater setbacks on a case-by-case basis.
- (d) *Regulations for beach services.*
- (1) A maximum of three permits shall be authorized by the town.
 - (2) Rental items shall be limited to beach chairs, umbrellas, surfboards, body boards, cabana tents, or any other beach rental item as approved by the Town Manager or his designee.
 - (3) Any vehicles and trailers used in connection with beach service shall be similar type all-terrain vehicles (ATV) as is used by the Police Department, and shall satisfy all OSHA and EPA requirements regarding emissions, noise, and impacts to the beach. Each license shall be limited to two ATVs. Drivers of ATVs shall be properly licensed and trained to operate said vehicles in a manner consistent with established police department standards.

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- (4) Access to the beach by an ATV shall be limited to Ocean Boulevard, Hamlet Avenue, and Starfish Lane.
- (5) Items should be for transient delivery only and not displayed for rent or have any advertisement on the beach strand other than the embroidered company information on the rental items.
- (6) Beach service operators shall not solicit beach patrons verbally or in an aggressive manner to rent items.
- (7) Beach deliveries and pickups utilizing an ATV shall meet the following:
 - i. Using Hamlet as the dividing point; from 11am to 4pm only one ATV can travel north and only one ATV can travel south.
 - ii. Shall be limited from sunrise to sunset.
 - iii. Beach Services providers are liable and responsible for removing all equipment in a hazardous situation and may utilize two ATV's in the same area in these instances.
- (8) Rental chairs and rental umbrellas may be stored on the ocean beach. The location and the method of storage shall be approved by the Town Manager subject to the following standards.
 - i. The applicant shall submit a notarized agreement holding the town harmless with regard to any theft, loss, damage or injury as a result of the licensees' operation and storage of material on the beach.
 - ii. The storage of product will only be allowed beginning April 1 and ending on September 30 and is subject to other state and federal laws.
 - iii. No more than three storage area locations per beach service permit.
 - iv. No more than one 4x4 wood post per storage area. The post shall be located at the toe of the dune and outside of the emergency lane.
 - v. The Town Manager may, at any time and for any reason, suspend the right to store material on the public beach. At the direction of the Town Manager, the chairs and umbrellas shall be removed or moved to another location on the beach strand within 24 hours of verbal or written notice.
 - vi. An attendant may assist customers with deliveries without utilizing an ATV with rental items at the storage areas outside of the hours of operation.
- (9) Reservation ID's shall be securely attached to the beach equipment (i.e. a minimum of 2 clips, painted, hook and loop, sleeve, stickers, etc....)
- (10) Beach equipment shall not be disposed of in any town refuse containers.

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(11) The 20' (emergency lane) from the easternmost edge of the dune slope or vegetative line shall be preserved for vehicular movement only.

(12) Beach Services ATV's shall only operate in the emergency lane. When stopping the ATV shall park immediately adjacent to the emergency lane on the east side.

(13) Beach Services shall meet the requirements of Sec. 28-119. Placing obstructions on the public beach.

(e) *Permit issuance.*

- (1) All permits shall be reviewed and issued by the Department of ~~Planning and~~ Community Development. Only complete applications meeting all the criteria of this section shall be accepted for a vending permit.
- (2) Existing vendors shall submit a request for permit renewal on or before March 1 of each year. All vending permits shall expire on March 31 of the following year.
- (3) Existing vendors shall be required to update their original submittal with any changes that have occurred since their last approval. Upon completion, the vendor shall sign a new one-year vending permit with the town.
- (4) No vendor shall apply for or obtain more than one of each type of vending permit (i.e. one motorized and one non-motorized).

(5) Rules will be printed on the permit with violation reference and fee

(f) *Wait lists.*

- (1) Vendors shall be considered in the order in which an application was accepted by the town.
- (2) The list of applicants shall be kept on file in the Department of Planning and Development.
- (3) A "new vendor" wait list shall be restarted every first business day of the calendar year.

(g) *Submittal.* All vendors shall address the following criteria in their vending submittal:

- (1) Full names of the applicant printed and signed.
- (2) Vendor's address, email, and telephone number.
- (3) Detailed list of items to be sold.
- (4) Equipment to be utilized in the activity. The applicant shall describe in detail where all materials, vehicles and/or carts will be stored during hours that they are not in use.

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- (5) Copy of valid North Carolina driver's license (as applicable).
- (6) Permit fees shall be paid at submittal or as soon as a permit becomes available. Permit fees shall be designated in the budget ordinance or by Town Council.
- (7) Applicants shall acquire and provide a copy of liability insurance naming the Town of Carolina Beach as an additional insured entity for not less than \$1,000,000.00.
- (h) *Permit revocation.*
 - (1) Beach Services: A beach service violation shall have the following escalation:
 - a. The first violation will be a written warning
 - b. The second violation will result in fine and a 10 day ATV suspension (only one ATV may be utilized during this timeframe).
 - c. The third violation will result in a fine and a 30-day ATV suspension (no ATV's may be utilized during this timeframe).
 - d. Any subsequent violations after three will result in a fine and revocation of beach service activities until the new calendar year.
 - (2) Vending Permits: A vending permit shall be revoked immediately by the citing town official upon receipt of three violations. A permit may be reinstated after review by Town Council at the request of the vendor. The vendor shall make available their vending log and a written explanation of the violations.
 - (2) All ~~vendors~~ beach permits shall maintain compliance with all rules and regulations as described in chapter 14, article II of the Town Code of Ordinances. Violations reset annually based on the calendar year. ~~Any violations of these rules shall automatically render the permit null and void.~~

(Code 1986, § 8-47(1)—(4); Ord. No. 10-833, 5-11-2010; Ord. No. 10-839, 6-22-2010; Ord. No. 11-863, 4-12-2011; Ord. No. 14-964, 1-9-2015; Ord. No. 19-1109, 2-12-2019; Ord. No. 23-1202, 4-11-2023)

Editor's note(s)—Ord. No. 19-1109, 2-12-2019, amended the title of § 28-1 to read as herein set out. The former § 28-1 title pertained to allowable vending and soliciting on public property within the town or managed by the town; restricting.

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DIVISION 3. OBSTRUCTIONS ON THE BEACH

Sec. 28-118. Definitions.

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

Awning means a rooflike covering extending over a certain area and used as a shelter.

Beach equipment means any personal items that are designed or manufactured for use, or actually used, on the beach or in the adjacent tidal waters. Examples include, with limitations, chairs, lounges, umbrellas, cabanas, tents, canopies, awnings, horseshoes and stakes, sailboats, kayaks, paddle vessels, sailboards, surfboards, fishing gear, sporting equipment, rafts, flotation devices, beach toys, baskets, bags, towels, coolers and other personal effects. Beach equipment shall not include municipal trash containers, signage or structures placed by a governmental agency, items placed by a bona fide conservation agency or organization (such as signs or protection devices for turtle nests or equipment approved for use by duly licensed mobile vendors).

Cabana means a collapsible shelter resembling a cabin with at least one open side.

Canopy means an ornamental roof like structure supported by more than one pole providing shade and/or protection from weather events.

Obstructions means anything located in public space or actions in the public space that inhibits accessibility.

Public beach includes the beach areas that extend from the mean high water mark landward to various natural indicators including, but not limited to, the first line of stable, natural vegetation; the toe of the frontal dune; and/or the rock revetment.

Structure means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

Tent means a collapsible shelter of fabric stretched and sustained by poles and used for camping or other recreational outdoor activities.

Town means, in a geographical sense, the area of the town inside its corporate limits, to include the extraterritorial jurisdiction (ETJ) and all beach and shoreline areas within the same.

Umbrella means a collapsible shade for protection against weather consisting of fabric stretched over hinged ribs radiating from a center pole.

(Code 1986, § 10-75; Ord. No. 08-755, 9-9-2008; Ord. No. 18-1084, 4-10-2018)

Sec. 28-119. Placing obstructions on the public beach.

(a) *Beach equipment.*

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- (1) Except as provided by a specific provision of this Code, all beach equipment must be removed from the beach by its owner or permitted user on a daily basis. All personal items and beach equipment unattended and remaining on the public beach between sunset and sunrise will be classified as abandoned property and will be removed and disposed of by the town.
 - (2) So as not to impede or restrict the free and unconstrained use and occupancy of the public beach by the public and in order to assist police, lifeguards and fire personnel in responding to emergency calls, absolutely no beach equipment is allowed on the beach at any time within 20 feet from the easternmost edge of the dune slope or vegetative line. Depending on conditions, emergency personnel may impose greater setbacks on a case-by-case basis.
 - (3) A business that rents beach equipment may not place or erect said equipment strictly for advertising purposes only. Such business shall abide by all rules and regulations pertaining to their particular license that has been issued and must adhere to the installation and removal policies as outlined within this section.
 - (4) All beach equipment shall be set at least 20 feet from any sea turtle nest. No beach equipment shall be placed seaward of a sea turtle nest for a distance of ten feet north and south of a direct line between the sea turtle nest and the Atlantic Ocean.
 - (5) No beach equipment may be placed within a 25-foot perimeter of an emergency access or any public beach access point. Depending on conditions, emergency personnel may impose greater setbacks on a case-by-case basis.
 - (6) No beach equipment may be placed directly in front of a lifeguard stand seaward of the stand for a distance of ten feet north and south of a direct line between the stand and the Atlantic Ocean. Depending on conditions, emergency personnel may impose greater setbacks on a case-by-case basis.
- (b) *Structures on the public beach.*
- (1) It shall be unlawful to place structures or obstructions on the public beach, or to commit any act that is an obstruction on the public beach.
 - (2) Structures associated with public safety, town authorized recreation activities, beach crossovers, piers, sand fencing permitted under CAMA regulations, or approved as a special event under article IX are exempt on the public beach.

(Code 1986, § 10-76; Ord. No. 08-755, 9-9-2008; Ord. No. 18-1084, 4-10-2018)

Editor's note(s)—Ord. No. 18-1084, adopted April 10, 2018, amended the title of § 28-119 to read as set out herein. The former § 28-119 title pertained to placing obstructions on beach.

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Sec. 28-120. Penalties.

- (a) Any person violating the provisions of section 28-120 shall be subject to a civil penalty punishable by a fine issued in accordance with the town's annually adopted rates and fees schedule to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within 15 days after having been cited for violation of the ordinance. In accordance with G.S. 160A-175(b), a violation of the section enumerated herein shall not be subject to the penalty provisions of G.S. 14-4 and shall not be considered a breach of the penal laws of the state.
- (b) A violation of any remaining section of this chapter is a misdemeanor punishable in accordance with the provisions of G.S. 14-4. The fine for such violation shall not exceed \$500.00.
- (c) A violation of any remaining section of this chapter shall subject the offender to a civil penalty punishable by a fine issued in accordance with the town's annually adopted rates and fees schedule. If any person fails to pay a civil penalty within 15 days after being cited for a violation, the town may seek to recover the penalty in a civil action in the nature of debt.
- (d) The provisions of this chapter may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (e) Each day's continuing violation of any provisions of this chapter shall be a separate and distinct offense.

(Code 1986, § 10-77; Ord. No. 08-755, 9-9-2008; Ord. No. 17-1058, § 4, 7-11-2017)

Secs. 28-121—28-138. Reserved.

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AMENDMENT TO THE TOWN'S RATES AND FEES SCHEDULE: ORDINANCE VIOLATIONS

<u>Obstructions on the Beach</u>		<u>\$100.00</u>
<u>Equipment on the beach between sunset and sunrise.</u>	<u>28-119</u>	<u>\$100.00</u>
<u>beach equipment within 20 feet from the easternmost edge of the dune slope or vegetative line.</u>	<u>28-119</u>	<u>\$100.00</u>
<u>Beach Equipment within 20 feet or seaward from a sea turtle nest.</u>	<u>28-119</u>	<u>\$100.00</u>
<u>Beach equipment placed within a 25-foot perimeter of an emergency access or any public beach access point.</u>	<u>28-119</u>	<u>\$100.00</u>
<u>Beach equipment placed directly in front of a lifeguard stand seaward of the stand for a distance of ten feet north and south of a direct line between the stand and the Atlantic Ocean.</u>	<u>28-119</u>	<u>\$100.00</u>
<u>Placing structures or obstructions on the public beach, or to commit any act that is an obstruction on the public beach.</u>	<u>28-119</u>	<u>\$100.00</u>
<u>Beach Services</u>		<u>\$100.00</u>
<u>Selling unauthorized equipment</u>	<u>28-1</u>	<u>\$100.00</u>
<u>Operating without a beach service permit</u>	<u>28-1</u>	<u>\$100.00</u>
<u>Operating outside of allowed hours</u>	<u>28-1</u>	<u>\$100.00</u>

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Conducting business within 20 feet from the dune or vegetation line	28-1	\$100.00
No unauthorized advertisements	28-1	\$100.00
No soliciting	28-1	\$100.00
Exceeding the number of allowable vehicles on the beach/area	28-1	\$100.00
Littering (ID tags)	28-1	\$100.00
Equipment utilizing town refuse containers	28-1	\$100.00

Be it ordained by the Town Council of the Town of Carolina Beach. Adopted this 12th day of November 12, 2025.

TOWN OF CAROLINA BEACH

Albert L. Barbee, Mayor

ATTEST:

Kimberlee Ward, Town Clerk