

ARTICLE XIV. - WATER TAXI REGISTRATION

FOOTNOTE(S):

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Cross reference— Boats, docks and waterways, Ch. 6.**Sec. 17-431. - Title.**

This Article shall be titled "The Palm Beach County Water Taxi Registration Ordinance."

(Ord. No. 2014-016, § 1, 5-20-14)

Sec. 17-432. - Definitions.

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

Designated Docking Facilities shall refer to the publicly-owned or privately owned docks and/or wharves which have been identified by the Provider as the location where a Water Taxi may dock or moor for the purpose of picking-up and dropping-off passengers.

Division or DCA shall mean the Palm Beach County Division of Consumer Affairs.

Provider shall refer to the owner and/or operator of a water taxi for hire.

Registration shall refer to the registration of all providers of Water Taxi services required by Palm Beach County pursuant to this Article.

Tour Boat shall refer to any boat that picks up and drops off passengers for a fee in exchange for tour services, including any vessel/amphibious vehicle that may also operate on both land and water in this capacity.

Water Taxi shall refer to any taxi for hire at prearranged rates of fare which is operated between the point of origin and a destination point different from the point of origin. Said term shall include but not be limited to water taxis and tour boats, but shall not include charter services, dive boats and fishing vessels.

(Ord. No. 2014-016, § 2, 5-20-14)

Sec. 17-433. - Registration.

- (a) Providers of Water Taxi services shall register with Palm Beach County before commencing operations; or if currently operating before the adoption of this Article, such Providers shall register within sixty (60) days after the effective date of this Article.
 - (1) The registration shall be on forms designated by the Palm Beach County Department of Public Safety.
 - (2) Documentation shall indicate that all persons operating a Water Taxi are licensed and insured in accordance with applicable federal requirements, the Palm Beach County Application for

Water Taxi Business Permit and Vessel Decal, and the requirements set forth herein.

- (3) Documentation shall indicate the Provider's Designated Docking Facilities. Subsequent requests to modify Designated Docking Facilities must be submitted to the County in writing and must be approved by the County before the Provider may commence services at a new Designated Docking Facility.
- (b) All Providers of Water Taxi services shall renew their registrations and pay all renewal fees with Palm Beach County on or before the date the initial registration is set to expire. If the registration expiration date falls on a weekend or holiday, the renewal registration is due and payable on or before the first business day following the expiration date.
- (c) The initial registration fee shall be one hundred fifty dollars (\$150.00) and the renewal registration fee shall be one hundred fifty dollars (\$150.00). The initial registration shall be valid for a two-year period and a renewal registration shall be valid for a two-year period. Nothing herein prevents Providers from obtaining successive renewals from Palm Beach County so long as the requirements of this Article are met.
- (d) All Providers shall comply with the local rules of each Designated Docking Facility and all registration requirements of any municipality.
- (e) Once a Provider has completed the registration process, paid all registration fees, and submitted all forms required by Palm Beach County, the County shall issue the Provider a revocable license and a decal to provide Water Taxi services as prescribed in the registration documents and license. A Provider shall also obtain a decal from each municipality where the Provider intends to provide Water Taxi services prior to the commencement of these services. To obtain a municipal decal, the Provider must submit proof to the municipality that it has met all insurance and indemnification requirements under this Article, and that it has paid the municipal fee for such decal. The County decal and all municipal decals must be displayed in a publicly visible area of the Water Taxi at all times.

(Ord. No. 2014-016, § 3, 5-20-14)

Sec. 17-434. - Insurance.

In order to obtain a revocable license from Palm Beach County for the provision of Water Taxi services, all Providers must secure and maintain, at their own expense and keep in effect during the full period of the revocable license agreement, a policy or policies of insurance, which must include the following coverages and minimum limits of liability:

- (a) *Commercial General Liability.* Provider shall agree to maintain Commercial General Liability at a limit of liability not less than one million dollars (\$1,000,000.00) each Occurrence. Coverage shall not contain any endorsement excluding nor limiting Contractual Liability, Products/Completed Operations Liability, or Cross Liability.
- (b) *Marine Protection & Indemnity Insurance.* Provider shall agree to maintain Marine Protection and Indemnity, or similar Watercraft Liability, for owned, hired, or borrowed watercraft. Coverage may be provided either by way of endorsement under the Commercial General Liability (GC 24 12 Boats), or by separate Marine Protection and Indemnity insurance with limits not less than one million dollars (\$1,000,000.00) each occurrence.

- (c) *Workers Compensation Insurance & Employers Liability.* Provider shall agree to maintain Florida Workers Compensation Insurance & Employers Liability. Provider shall agree to maintain Federal Act endorsements for U.S. Longshoremens & Harbor Workers Act (WC 00 01 06 A) and The Jones Act (WC 00 02 01 A) when activities or operations involve work on or contiguous to navigable bodies of U.S. waterways and ways adjoining, or vessels. The Provider agrees to be responsible for the employment, control and conduct of its employees and for any injuries sustained by such employees in the course of their employment.
- (d) *Umbrella or Excess Liability.* Provider may satisfy the minimum limits required above for Commercial General Liability, Marine Protection & Indemnity, or Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest Each Occurrence limit for Commercial General Liability, Marine Protection & Indemnity, or Employers Liability. The County, and each municipality where the Provider provides Water Taxi services, shall be specifically endorsed as an Additional Insured on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a Follow-Form basis.
- (e) *Additional Insured.* Provider shall agree to endorse the County and each municipality where the Provider provides Water Taxi services, as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability, the Marine Protection & Indemnity, and the Employers Liability. The Additional Insured endorsement for Palm Beach County shall read "Palm Beach County Board of County Commissioners." The Additional Insured endorsement for each municipality where the Provider provides Water Taxi services shall be in the form required by each municipality.
- (f) *Waiver of Subrogation.* Provider shall agree by entering into a revocable license agreement to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an Insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then Provider shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should Provider enter into such an agreement on a pre-loss basis.
- (g) *Certificate(s) of Insurance.* Immediately following notification of the award of the revocable license agreement, Provider shall agree to deliver to the County a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by the revocable license agreement have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall contain a provision or endorsement that the coverage afforded shall not be cancelled, materially changed or renewal refused until at least thirty (30) days written notice has been given to the Palm Beach County Board of County Commissioners by certified mail. The Certificate Holder shall read Palm Beach County, Board of County Commissioners, 50 South Military Trail, Suite 201, West Palm Beach, Florida 33415 and each municipality.
- (h) *Right to Review.* The County, by and through its Risk Management Department, in cooperation with all applicable County Departments including, but not limited to the Departments of

Public Safety and Parks and Recreation, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the life of the revocable license agreement. The County reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

(Ord. No. 2014-016, § 4, 5-20-14)

Sec. 17-435. - Revocation, suspension and denial of license/administrative appeal/court appeal.

Provider agrees to perform the work under the license agreement as a licensee, and not as a contractor/subcontractor, agent or employee of the County or of any municipality where the Provider provides Water Taxi services. A violation of the terms of the license agreement shall constitute a material breach by the Provider and the County, at its sole discretion, may cancel the license agreement and all rights, title and interest of the Provider shall thereupon cease and terminate.

- (a) The Director of the Division of Consumer Affairs is authorized to deny, suspend or revoke licenses/decals, upon written notice. Suspensions shall not be more than six (6) months. Providers not resolving issues related to suspensions within the six-month suspension period will be subject to license/decal revocation. Said notice of license/decal denial, suspension or revocation shall be by personal service (to the Provider by certified mail, return receipt requested, or posting in a conspicuous place at the place of business or home of the Provider).
- (b) Upon receipt of the notice of denial, revocation, or suspension of a license/decal, which notice shall specify the grounds for the denial, suspension or revocation, the Provider shall be entitled to an appeal according to the following:
 - (1) *Administrative appeal.* Any Provider which has had a license/decal denied, revoked, or suspended by the Division, may appeal such decision to the Consumer Affairs Division within twenty (20) days of receipt of the decision. A non-refundable filing fee must accompany the written request for appeal. The Provider or attorney shall file a written notice of appeal signed by the Provider or attorney requesting a hearing and setting forth a brief statement of the reasons thereof. The filing fee shall be one hundred fifty dollars (\$150.00). The appeal shall be reviewed at a hearing of the Consumer Affairs Hearing Board or Special Master within sixty (60) days of receipt by the Division of the notice of appeal. The determination of whether the appeal will be heard by the Consumer Affairs Hearing Board or Special Master will be made by the Division of Consumer Affairs in accordance with their policies and procedures. The Operator may be represented by an attorney and shall be entitled to present a defense.
 - (2) *Court appeal.* Any person may appeal a final determination of the Consumer Affairs Hearing Board/Special Master within thirty (30) days of the rendition of the decision by filing a petition for writ of certiorari in the Circuit Court of the Fifteenth Judicial Circuit in and for the County.
 - (3) *Suspension of the license/decal.* If, at the conclusion of the hearing, the Consumer Affairs Hearing Board or Special Master decides to suspend the license/decal a time certain shall be set as the period of suspension. Prior to the end of such time certain, those violations for which the suspension was imposed shall be corrected; otherwise, the suspended

license/decal shall be automatically revoked. A fee of fifty (50) percent of the license/decal fee shall be collected to reinstate the suspended license/decal.

- (4) *Revocation of license/decal.* If, at the conclusion of the hearing, the Consumer Affairs Hearing Board or Special Master votes to revoke the license/decal, the Provider shall return the license/decal and return same to the Division. A Provider whose license/decal has been revoked, shall not be eligible to reapply as a new applicant for a period of one (1) year from the date of revocation.
- (5) If the Consumer Affairs Hearing Board or Special Master reverses the decision of the Director of the Division of Consumer Affairs, the Director of the Division of Consumer Affairs shall issue or restore the license/decal.
- (6) When the license/decal of a Provider has been denied, suspended or revoked by the Consumer Affairs Hearing Board or Special Master, all operations of the Water Taxi/Tour Boat shall immediately cease.
- (7) In the event a written notice of appeal and accompanying filing fees are not submitted within the time frames outlined in this Article, the decision of the Director of the Division of Consumer Affairs shall be the final administrative action.
- (8) *Administrative appeal—Insurance.* When a license/decal has been denied, suspended or revoked for failure of the Provider to obtain or maintain the required insurance pursuant to this Article and the Provider wishes to appeal the denial/suspension/revocation, the Provider may appeal such decision to the Consumer Affairs Hearing Board/Special Master within five (5) days of receipt of the decision. The appeal shall be heard by the Consumer Affairs Hearing Board/Special Master within ten (10) days of receipt of the written appeal. A non-refundable filing fee must accompany the written request for appeal. The filing fee shall be one hundred fifty dollars (\$150.00).
- (9) *Effect of appeal.* An appeal of the decision of the Director of the Division of Consumer Affairs to deny, suspend or revoke a Provider's license/decal or the renewal of same, shall stay the effective date of the denial, suspension or revocation. A stay does not apply to a denial, revocation or suspension of a Provider's license/decal of a business or renewal thereof, which failed to maintain insurance as required by this Article.
- (10) *Hearing procedures.* Notwithstanding Section 4 of Palm Beach County Consumer Affairs Ordinance 2014-7 (as may be amended from time to time), the Consumer Affairs Hearing Board/Special Master shall give due regard to competent, reliable and technical evidence which will aid the Consumer Affairs Hearing Board/Special Master in making a fair determination of the matter, regardless of the existence of any common law or statutory rule which might otherwise make improper the admission of such evidence. All parties shall have an opportunity to present evidence and argument on all issues involved, to conduct cross examination and submit rebuttal evidence, and to be represented by counsel.

When appropriate, the general public may be given an opportunity to present oral or written communications. The Consumer Affairs Hearing Board/Special Master may consider any evidence, including evidence of the general reputation of the petitioner. All testimony shall be under oath and

shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Irrelevant, immaterial or unduly repetitious evidence may be excluded but all the other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, (including hearsay) whether or not such evidence would be admissible in a trial in the courts of the state. Orders of the Consumer Affairs Hearing Board/Special Master shall be based on competent and substantial evidence. The petitioner shall have the burden of proof by a preponderance of the evidence.

(Ord. No. 2014-016, § 5, 5-20-14)

Sec. 17-436. - Indemnification.

In order to obtain a revocable license from Palm Beach County for the provision of Water Taxi services, all Providers must execute an indemnification agreement, which must include the following language:

- (a) To the fullest extent permitted by laws and regulations, the Provider shall indemnify, defend, save and hold harmless, Palm Beach County, its officers, agents and employees from any and all claims, damages, losses, liabilities and expenses, direct indirect or consequential arising out of, or in consequence of the services furnished by, or the operations of the Provider, or its subcontractors, agents, officers, employees or independent subcontractors pursuant to the performance of the license agreement and provide written notification of same to Palm Beach County and the affected municipality(s).
- (b) To the fullest extent permitted by laws and regulations, the Provider shall indemnify, defend, save and hold harmless, any municipality which has a Designated Docking Facility where Provider intends to dock and operate its Water Taxi services, the municipality's officers, agents and employees from any and all claims, damages, losses, liabilities and expenses, direct indirect or consequential arising out of, or in consequence of the services furnished by, or the operations of the Provider, or its subcontractors, agents, officers, employees or independent subcontractors pursuant to the performance of the License Agreement and provide written notification of same to Palm Beach County and the affected municipality(s).
- (c) Provider shall pay all losses, claims, liens, settlements, or judgments of any nature whatsoever in connection with the foregoing indemnification, including but not limited to, reasonable attorney's fees (including appellate attorneys' fees and costs).
- (d) Palm Beach County and each affected municipality reserves the right to select its own counsel to conduct any defense in any such proceedings and all costs and fees associated therewith shall be the responsibility of the Provider under the indemnification agreement set forth herein. Nothing contained herein is intended nor shall it be construed to waive Palm Beach County's or an affected municipality's rights and immunities under the common law or F.S. § 768.28, as amended from time to time.

(Ord. No. 2014-016, § 6, 5-20-14)

Sec. 17-437. - Violations.

False statements on applications. It shall be unlawful for any person to knowingly and intentionally make or cause to be made any false statement in writing or omit material information for the purpose

of procuring a license/decal or to knowingly and intentionally make any false statements or entries or material omissions on the records required to be kept by this Article.

Failure to comply with the provisions of this Section may result in the Director of the Division of Consumer Affairs denying a license/decal, revoking or suspending the license/decal, denying the renewal of such license/decal or other such remedies available to the Division herein.

(Ord. No. 2014-016, § 7, 5-20-14)

Sec. 17-438. - Refusal of service.

No Water Taxi Provider shall refuse transportation to any passenger unless the passenger cannot pay the scheduled fare or the taxi is already at capacity as mandated by the U.S. Coast Guard or other authority. Service may be refused to persons who are visibly inebriated.

(Ord. No. 2014-016, § 8, 5-20-14)

Sec. 17-439. - Enforcement; applicability.

This Article is enforceable by all means provided by law. Additionally, the County may choose to enforce this Article by seeking injunctive relief in the Circuit Court of Palm Beach County. These rules shall be enforced by the applicable local government having jurisdiction by means of F.S. Ch. 162, code enforcement process or by any other legal means available. Each day that a violation continues shall constitute a separate and distinct magistrate or in the County Court for Palm Beach County.

These rules and regulations shall apply to all Water Taxi and Tour Boat operations, including those using public or private docks or boat ramps within Palm Beach County.

The provisions of this Article shall be applicable to the incorporated and unincorporated areas of the County. This Article shall be effective in municipalities unless the municipality opts out or shall be effective up to the extent of conflict with the municipal ordinance.

(Ord. No. 2014-016, § 12, 5-20-14)

Sec. 17-440. - Penalty.

Any violation of any portion of this Article shall be punishable as provided by law.

(Ord. No. 2014-016, § 13, 5-20-14)