

MEMORANDUM NO. MF 15-13

DATE: December 17, 2015

TO: Marine Advisory Board

FROM: Andrew Cuba, Manager of Marine Facilities

RE: January 7, 2016 Agenda / Application – Beach Boating Restricted Area Waiver/Code Section 8-175 – Atlantic Beach Clubs-Two, Inc.

Attached is an application for a waiver of the provisions under code section 8-170 through 8-178 to operate through the beach boating restricted zone located up to 100 yards off shore from property located on the beach adjacent to 3049 Alhambra Street (see **Exhibit 1**).

APPLICATION AND BACKGROUND INFORMATION

The City Code of Ordinances, Section 8-175 (within **Exhibit 2**) requires among other things that the contents of the application include: the name and address of the business operator; complete description of activities; specific location of activities; proof of insurance coverage; and any additional information which is reasonably necessary to enable the City Commission to determine whether the activities proposed to be conducted under the waiver may constitute a reasonably likely threat of endangering public safety. Among other factors, the City Commission may grant or deny the application and may consider whether:

- (1) The waiver application is incomplete in a material respect;
- (2) The waiver application has been fraudulently completed;
- (3) The activity proposed under the waiver could not be conducted without a reasonably likely threat of endangering public safety.

SITE LOCATION

As described in the application included in **Exhibit 1** the proposed motorized watercraft rental concession is located on beach property adjacent to 3049 Alhambra Street as described in the site plan provided in **Exhibit 1**. The proposed rental site will consist of a 50' wide corridor with a minimum of 8 temporary removable orange buoys used to adequately identify the corridor. The corridor is strictly for use by rental watercraft traversing the 100-yard boat restricted zone as required under the code.

OPERATING PLAN

The operator proposes to maintain a fleet of 8 VX 110 Yamaha wave runners for rental purposes. Additionally, an additional wave runner will be assigned solely as a chase watercraft to control and safeguard watersports activities in accord with the requirements contained in the code. Provisions in the application included in **Exhibit 1** have also been made to color code the chase watercraft from rental watercraft for identification purposes. In addition to the wave runners, a 10 passenger 'banana boat' and 'jet pack' rides will be available for rent. The designated non-permanent over-night storage site for wave runners and other equipment must be secured in an area above the high water mark as required by the code.

RECOMMENDATIONS

To summarize the above, we find that the proposed business operation meets all of the conditions of the code. The recommendations and requirements for this applicant are implemented to maintain consistency. In addition, the special safety conditions imposed on the motorized rental concession include:

1. Corridor buoys shall be placed fifty feet (50') apart with measurement starting from the 100 yard boating restricted outer demarcation line currently marked with white cylindrical buoys.
2. The forward portion of all motorized rental watercraft and the chase watercraft shall be sufficient in size to permit identification a minimum distance of 150 yards.
3. Prior to operating the business operator's insurance certificate shall be reviewed by the City's Risk Manager in accord with code section 8-175(6).
4. Prior to operating daily a minimum of 2 signs must be posted along the high water mark at each boundary of the corridor to sufficiently warn the swimming public not to enter the watercraft launching area. Signs shall be removed at the end of each day and stored above the high water mark in the designated area under cover in a secure location to prevent theft.

AC
Attachment

cc: Carl Williams, Deputy Director of Parks and Recreation

ATLANTIC BEACH CLUBS-TWO, INC.

APPLICATION FOR WATERWAY PERMITS, WAIVERS AND LICENSES

December 10, 2015

ATLANTIC BEACH CLUBS-TWO, INC.

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**CITY OF FORT LAUDERDALE MARINE FACILITIES
APPLICATION FOR WATERWAY PERMITS, WAIVERS AND LICENSES**

Any agreement with the City of Fort Lauderdale and other parties, such as, but not limited to, licenses, permits, and approvals involving municipal docking facilities or private uses in the waterways as regulated by Section 8 of the City Code of Ordinances of Section 17-19.3 of the City's Urban Land Development Regulations shall be preceded by the execution and filing of the following application form available at the Office of the Supervisor of Marine Facilities. The completed application must be presented with the applicable processing fee paid before the agreement is prepared or the application processed for formal consideration (See City of Fort Lauderdale Code Section 2-157). If legal publication is necessary, the applicant agrees to pay the cost of such publication in addition to the application fee.

APPLICATION FORM - MUST BE TYPEWRITTEN FORM ONLY

1. LEGAL NAME OF APPLICANT - (if corporation, name and titles of officers as well as the exact name of corporation. If individuals doing business under fictitious name, correct names of individuals, not fictitious names, must be used):

NAME: Atlantic Beach Clubs-Two, Inc.
Adam Vaughn, CEO

TELEPHONE (804) 512-8749 (954) 462-7267
NUMBER: Business Fax

2. ADDRESS: 1033 NE 17TH WAY, UNIT 704
FORT LAUDERDALE, FLORIDA 33304
3. TYPE OF AGREEMENT DESIRED: Waiver for Motorized Watersports Rental Concession/Public Beach
4. REASON FOR REQUEST: Rental of watercraft and banana boat rentals on public beach governed by 8-170 through 8-178 of the City Code
5. ADDRESS AND LEGAL DESCRIPTION OF PREMISES OR AREA AFFECTED: The concession area is a fifty foot wide area of the beach east of the beach.

STREET ADDRESS:

LEGAL DESCRIPTION: A portion of section 7 township 50 south, range 43 east bounded as follows:

On the North by a line 75 feet south of, as measured by right angles to the eastern projection of the centerline of Alhambra Street; On the west by a line 35' east of the east right of way line of Atlantic Boulevard (State road A-1-A); on the south by a line of 75' south of, as measured at right angles to the easterly projection of the centerline of Alhambra Street and on the east by all as shown on the Broward County records Plat Book No. 19 Page 26 of the Birch Ocean Front Sub, portion of block A. Said lands situated, lying and being in the City of Fort Lauderdale, Broward County, Florida.

The general description of the concession areas is fifty (50) foot wide area of the beach east of the access stairway at Alhambra Street.

6. PROOF OF OWNERSHIP - (Certificate of title by recognized title company certifying ownership of land):
7. SIGNATURE AND TITLE: N/A
8. WATERSPORT OPERATOR'S NAME: Atlantic Beach Clubs-Two, Inc.

MAILING ADDRESS: 1033 NE 17TH WAY, UNIT 704
FORT LAUDERDALE, FLORIDA 33304

SIGNATURE AND TITLE: _____
ADAM M. VAUGHN, CEO

The sum of _____ was paid by the above named applicant on the _____ day of _____, 2015.

===== FOR OFFICIAL USE ONLY =====

Marine Advisory Board Action:
Formal Action taken on _____

Commission Action:
Formal action taken on _____

Accepted _____ Continued to _____

Accepted _____ Continued to _____

Rejected _____ Referred to _____

Rejected _____ Referred to _____

INTRODUCTION

Atlantic Beach Clubs is honored to have been chosen by the City of Fort Lauderdale to operate the Motorized Watercraft Beach Concession on Fort Lauderdale Beach (RFP 555-11582)

Atlantic Beach Clubs is proud of its 17 plus year past and present service to the watersports needs of both residents and visitors of Fort Lauderdale.

Based upon our experience in the industry, we are well aware of the City's needs for this Concession, as well as the safest and most profitable ways of fulfilling these needs.

We believe that "actions speak louder than words" and that our history of financial stability, safety record, knowledgeable and dependable personnel and up-to-date and safe equipment allows us to understand the essential needs for safety, professional staff, enjoyable and safe equipment required by the City of Fort Lauderdale.

The City's needs for this concession dovetails perfectly into our philosophy and experience in fulfilling those needs.

Atlantic Beach Clubs management intends to work with the Marine Advisory Board and the City of Fort Lauderdale every step of the way to ensure that every detail of our plan for the Motorized Watercraft Beach Concession is expanded and executed in a way that will do the City proud.

Our commitment in terms of dollars invested and excellence in personnel, marketing, profitability, equipment and safety procedures are set forth in this application.

DESCRIPTION OF EQUIPMENT AND ACTIVITIES

Atlantic Beach Clubs will offer three types of activities at this concession. There will be waverunner rentals, banana boat rides, and jet pack rides. There will be a total of eight waverunners, one 10 passenger banana boat and jet pack rides. All equipment will be stored on site (See Page 3, Storage Site Plan). This plan offers a visual of what the site will look like after business hours. All equipment will be locked with security cables and master padlocks. The waverunners will be covered with custom-made covers.

The waverunners used for this operation will be Yamaha VX-110 (See Page 4). They will be purchased brand new, will be 2015 models and will be replaced every two years or sooner as per City code. These waverunners are 3 seaters with 4 stroke engines that produce 110 horsepower. They will support a maximum of 530 pounds. These newer model waverunners have a noise muffling system that is below the waterline, which reduces noise levels. This vessel produces 82 decibels, which is below the state's legal limit.

The waverunner rentals will consist of nine total waverunners, eight of which will be rental vessels and one will be the required chase vessel. One chase vessel will be readily available in close proximity to the marked corridor for use by Atlantic Beach Club staff when any rental watercraft is in operation. This chase watercraft will be labeled on the front hood in large white letters, "CHASE".

The rental watercraft will be labeled with large white numbers on the front hood to identify Atlantic Beach Club rentals. These numbers will be large enough to allow the rental watercraft to be identifiable from a distance of 150 yards.

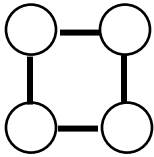
The banana boat used for this concession is a 10 passenger Island Hopper Banana Boat. It is the "Island Taxi" edition (See Page 5). This banana boat can seat from 1 to 10 persons in a time. There are 5 seats on the port side and 5 seats on the starboard side. Passengers sit on top of the banana boat and hold on to a strap that is built in to the banana itself. The banana boat is pulled by a waverunner. As per state requirements the banana boat will be driven by a licensed staff member. Also, as per state regulations, the tow vessel will have rear view mirrors allowing the driver a constant watch over the passengers.

For the waverunner rentals and banana boat rides all customers will be required to wear US Coast Guard approved Type 1 personal flotation devices at all times.

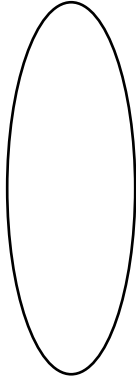
STORAGE SITE PLAN

(not to scale)

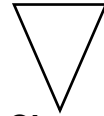
Sea Wall



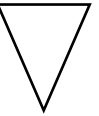
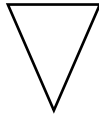
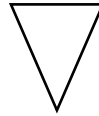
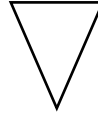
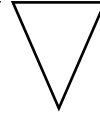
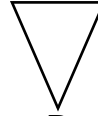
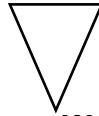
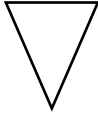
ATV



Banana Boat

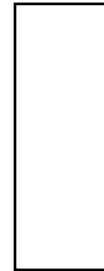


Chase



Wave Runners

ZONE A



Storage
Boxes



**ZONE
B**

ZONE C

Ocean



PRE-RENTAL INSTRUCTIONS/WAIVER FORMS

The very first issue to resolve when renting a waverunner is to determine the age of the customer. To operate a vessel powered by a motor of 10 horsepower or greater, a person who was born on or after January 1st, 1988, must have completed a boater education course approved by the National Association of State Boating Law Administrators (NASBLA) or passed an approved equivalency exam. If a person is born prior to this date they are exempt from this requirement. All customers affected by this requirement will be allowed to get a temporary boaters license on site for a cost of \$3.00. The minimum age to rent a waverunner is 18. The minimum age to operate a waverunner is 14.

Atlantic Beach Club will offer pre-rental instructions to all of its customers. Company staff will inform renters about the safe and proper operation of a personal watercraft. This information will include but not be limited to:

- Reckless operation, and noise, nuisance, and environmental concerns

- Operational characteristics of PWC's-propulsion, steering, and stopping characteristics

- Safe vessel operation and vessel "right-of-way" rules

- Applicability of the navigation rules to PWC operation

- Problems with seeing and being seen by other boaters

- The location and content of warning labels

- Responsibility of the operator and safe and proper operation of the vessel

- Local characteristics of the waterway including the corridor and open sea

Once the orientation is complete, Atlantic Beach Clubs will provide all waverunner operators with a written form which will notify the operators of the special conditions of the rental and any applicable penalties for violating any of the conditions. Before allowing the rental watercraft to be operated within the corridor, Atlantic Beach Club will have the operator sign the form, acknowledging that the operator has read the form and will comply with the special operating conditions (See Pages 8 through 11).

In addition to this form, Atlantic Beach Club will require the operator to sign the PWC Renter Orientation Checklist. This checklist is provided by the Florida Fish and Wildlife Commission (See Page 12).

RELEASE OF LIABILITY, ASSUMPTION OF RISK, WAIVER OF CLAIMS & INDEMNIFICATION AGREEMENT

Notice – By signing this document you may be waiving certain legal rights, including the right to sue.

Release and Waiver of Claims: Assumption of the Risk: Indemnification Agreement

In consideration of being allowed to use the facilities, vessels, and participate in operating personal watercraft and other activities (collectively the “Activities”) provided by Seabreeze Boat Rentals Inc. (the “Host”), the Participant hereby agrees, to the fullest extent permitted by law, as follows:

- 1) **TO WAIVE ALL CLAIMS** that he/she has or may have against the Host arising out of the Participant’s participation in the Activities or the use of any equipment provided by the Host (“Equipment”), including while receiving instruction and/or training. As used herein, the term “Equipment” shall include, but not be limited to, personal watercraft;
- 2) **TO ASSUME ALL RISKS** of participating in the Activities and using the Equipment, even those caused by the negligent acts or conduct of the Host, its owners, affiliates, operators, employees, agents, and/or officers. The Participant understands that there are inherent risks of participating in the Activities and using the Equipment, which may be both foreseen and unforeseen and include serious physical injury and death;
- 3) **TO RELEASE** the Host, its owners, affiliates, operators, employees, agents, and officers from all liability for any loss, damage, injury, death or expense that the Participant (or his/her next of kin) may suffer, arising out of his/her participation in the Activities and/or use of the Equipment, including while receiving instruction and/or training. The acts or conduct of the Host, its owners, affiliates, operators, employees, agents, and/or officers, to the fullest extent permitted by law. However, nothing in this Agreement shall be construed as a release for conduct that is found to constitute gross negligence or intentional conduct; and
- 4) **TO INDEMNIFY** the Host, its owners, affiliates, operators, employees, agents, and/or officers, from all liability for any loss, damage, injury, death, or expense that the Participant (or his/her next of kin) may suffer, arising out of participation in the Activities and/or use of the Equipment, including while receiving instruction and/or training.

Personal Responsibility

The participant certifies that he/she has no physical or mental condition that precludes him/her from participating in the Activities and that he/she is not participating against medical advice.

The participant understands that his/her participation in the Activities is voluntary and further understands that he/she has the opportunity to inspect the Host’s Equipment, vessels, and facilities before any participation.

The Participant understands that he/she is obligated to follow the rules of the Activities and that he/she can minimize his/her risk of injury by doing so and through the exercise of *common sense* and by being aware of his/her surroundings.

If, while participating in the Activities, the Participant observes any unusual hazard or condition, which he/she believes jeopardizes his/her personal safety or that of others, he/she will remove himself/herself from participation in the Activities and immediately bring said hazard or condition to the attention of the Host.

To the extent that any portion of this Agreement is deemed to be invalid under the law of the applicable jurisdiction, the remaining portions of the Agreement shall remain binding and available for use by the Host and its counsel in any proceeding.

I HAVE READ AND UNDERSTAND THIS AGREEMENT AND I AM AWARE THAT BY SIGNING THIS AGREEMENT I MAY BE WAIVING CERTAIN LEGAL RIGHTS, INCLUDING THE RIGHT TO SUE.

Participant’s Name (Printed): _____

Date: _____

Participant’s Signature: _____

Date: _____

SAFETY CHANNEL/MARKED CORRIDOR

A corridor will be designed by Atlantic Beach Club to provide an appropriate level of safety for the transit of waverunners and banana boat riders from the sandy beach through the restricted area out to open waters. The width of this corridor will be approximately 50 feet wide. Eight orange buoys (See Page 14), will mark the corridor. Four buoys will be placed on the north side of the corridor and the other four buoys will be placed on the south side of the corridor. These buoys will be evenly spaced and approximately 20 yards apart as you look at them East to West. These buoys will be placed each day before the first rental and will be removed each evening after the last rental has returned to shore. These buoys will be placed in storage lockers during overnight hours.

Additionally, the corridor will be marked on the sandy beach with one sign on the north edge of the corridor and one sign on the south edge of the corridor. These signs will warn all swimmers to stay out of the corridor (See Page 15). Page 15 demonstrates the language that will appear on the signs. The dimensions of the signs, which contain the beach concession logo will be 36" long by 24" wide. The signs are red background with white lettering.

All waverunners will proceed in the marked corridor at the slowest speed necessary to maintain safe steerage. Atlantic Beach Club will warn all watercraft operators when operating in the marked corridor to proceed at the appropriate speed and to yield the right-of-way to any swimmer.



EQUIPMENT MAINTENANCE

Because safety is our primary concern, Atlantic Beach Club inspects its waverunners twice a day. Once in the morning, using a waverunner opening checklist (See Page 17) and once after business using a waverunner closing checklist (See Page 18).

If at any time a waverunner does not pass a safety checklist, it is removed from service. All maintenance and repair work will be performed in our warehouse by a qualified technician. If the waverunner is still under its warranty, the maintenance will be performed by Riva Yamaha. At no time will maintenance be performed on the sandy beach.

FUEL HANDLING

For fueling, gas will be provided daily in 5 gallon gas containers. All federal, state and local regulations will be followed. All fuel containers will be placed in City fire department approved containment vessels located above the high water mark to protect the beach environment from fuel spillage. A maximum of 25 gallons of fuel will be stored at any one time during day operations. Fuel containment drip buckets will be used to make sure gas does not get spilled on to the sandy beach. As a backup, absorption pads will be on site to clean up any spillage in the event of an emergency. Fuel will not be stored on the beach overnight.

ATLANTIC BEACH CLUBS
WAVE RUNNER OPENING
CHECKLIST

Date: _____

Day: _____

Initial

_____	Registration Decal in Place
_____	FL Numbers in Place
_____	Fire Extinguishers
_____	Lanyards and Whistles
_____	Grips in Good Working Order
_____	Oil Checked
_____	Wave Runners Fully Fueled
_____	All Hoses/Connections in Good Order
_____	Rescue Ski Fully Equipped
_____	Wave Runners Clean

Comments/List Any Broken Items Here:

ATLANTIC BEACH CLUBS
WAVE RUNNER CLOSING
CHECKLIST

Date: _____

Day: _____

Initial

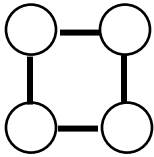
_____	Registration Decal in Place
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_____	Rescue Ski Fully Equipped
_____	Wave Runners Clean

Comments/List Any Broken Items Here:

CONCESSION SITE PLAN

(not to scale)

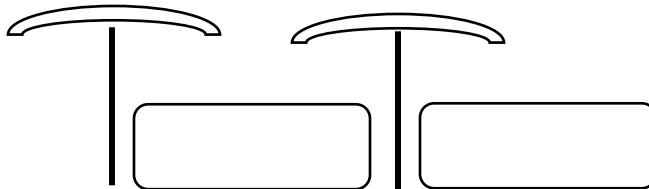
Sea Wall



ATV



35 feet

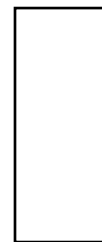


Welcome Center

ZONE A

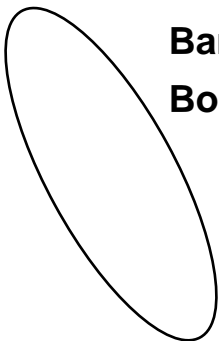


Storage
Boxes



ZONE B

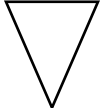
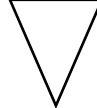
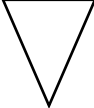
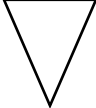
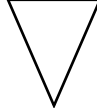
Banana
Boat



Chase



Wave Runners



ZONE C

Ocean



Vehicle
Exclusion Corridor

