



MICHAEL A. ADKINSON, JR., SHERIFF
Office of the Sheriff, Walton County

Standard Operating Procedure

Title: **Trespassing on Gulf Front Beaches**

Number: **2.1.1**

Effective Date: **10/01/23**

Amends: **06/11/18**

Applicable Standards

CFA: None

FCAC: None

Approved by:

Sheriff Michael A. Adkinson, Jr.

I. Purpose: To provide direction to agency members when answering calls for service related to claims of trespass on Gulf front/beach property in Walton County.

II. Authority:

Chapter 30, Florida Statutes

Chapter 161, Florida Statutes

Chapter 177, Florida Statutes

Chapter 810, Florida Statutes

Florida Constitution Article X § 11

Walton County Customary Use Settlement Agreement

III. Definitions:

Beach Nourishment – beach replenishment or sand replenishment—describes a process by which sediment lost through drift or erosion is replaced from sources outside of the eroding beach by local, state or federal funds.

Erosion Control Line (ECL) –means the line determined in accordance with the provisions of F.S. 161.141-161.211 which represents the landward extent of the claims of the state in its capacity as sovereign titleholder of the submerged bottoms and shores of the Atlantic Ocean, the Gulf of Mexico, and the bays, lagoons and other tidal reaches thereof on the date of the recording of the survey as authorized in s. 161.181. Once the ECL has been established in connection with a Beach Nourishment, the boundary between state owned and privately held beachfront is fixed.

Mean High Water Line (MHWL) – means the intersection of the tidal plane of mean high water with the shore.

Walton County Customary Use Settlement Agreement- That Settlement Agreement entered by Walton County and certain gulf front/beach property owners in settlement of Case No.: 2018-CA-000547 in the First Judicial Circuit, Walton County, FL.

Transitory Zone – An area of the beach extending 20 feet landward from the wet/dry sand line as established in the Walton County Customary Use Settlement Agreement.

IV. General:

A. This SOP is intended to provide clarification concerning (i) property rights as they pertain to trespassing on private property along the Walton County coast line; and (ii) the right of the public to access portions of the beach. For law enforcement to take lawful action upon a claim of trespass, three things must occur:

1. The officer must first reasonably believe that the person making the complaint is the owner of the property; AND
 - a) “Owner” shall be defined as:
 - (1) Public Record Title Owners of Gulf front/beach property; and/or
 - (a) See documentation required under Section V. (A)(1) herein below.
 - (2) Renters, Agents, Users and/or Guests of the Public Record Title Owners with appropriate documentation.
 - (a) Trespass Authorization Letter from the Public Record Title Owner must be presented authorizing the respective Renter, Agent, User and/or Guests (along with their driver’s license and other documentation of Public Record Title Owners as listed in Section V. (A)(1) herein below).
2. That the person trespassing is in fact on the complainant’s property; AND
3. The person trespassing refuses to leave once requested by the officer.

V. Procedures:

A. Deputies shall use the following guidelines regarding complaints of trespass on Gulf front property/beaches:

1. Enforcement Generally:

- a) If residents wish to have trespass laws enforced on their Gulf front/beach properties, the Sheriff’s Office (“WCSO”) will need several documents presented by the Public Record Title Owner (“Owner”) and retained by the officer for use as evidence in any criminal prosecution. If these items are not presented, the WCSO will not be able to clearly establish the necessary elements for criminal trespass on private property inland of the mean high water line. The necessary documents are:

- b) Copy of Owner's deed (certified copy preferred). This can be obtained from the Walton County Clerk's office at the South Walton Annex.
 - c) If property is part of a subdivision or condominium plat, a copy of the Plat (certified copy preferred). Also available from the Walton County Clerk's office.
 - d) Copy of Owner's driver's license, which name thereon shall be on the deed. If the property is titled in something other than the Owner's individual name (i.e., corporation; limited liability company; limited partnership; trust; etc.), then in addition to the driver's license, a resolution executed by all principals of the entity authorizing the person with the driver's license to act on behalf of the entity. If the beach area in question is designated as "common area" and dedicated on the plat to a homeowner's association, or condominium association, than a Board of Directors resolution or Trespass Authorization Letter must also be presented authorizing the person with the driver's license to act on behalf of the association. Renters, Agents, Users and/or Guests of the Owner may seek to enforce trespass on the subject property with all required information as listed above in addition to a Trespass Authorization Letter from the Owner.
 - e) A signed, sealed and certified survey approved by and submitted to the Florida Department of Environmental Protection (FDEP) that establishes the mean-high water line and such survey is recorded in the Walton County Clerk's Office. If the survey does not contain an FDEP approval stamp, then a letter from FDEP approving the survey will suffice. All linear dimensions of the property's boundary need be shown on the survey with recognizable upland marks. (NOTE: FDEP does not require linear dimensions be shown on MHWL FDEP approved survey thus such survey may or may not show dimensions. If the survey does not show linear dimensions, the owner must have their surveyor update their survey to show same). (NOTE: If the alleged trespasser is far enough away from the wet sand where it is obvious to the officer based on other documents received they are on the owner's property, a signed and sealed survey not approved by FDEP for purposes of establishing mean high-water line will suffice.
 - f) The property boundaries of the upland owners' property are adequately marked on the ground indicating the boundary between the mean-high water line and their upland property. The Erosion Control Line must also be shown on the survey (if applicable), and properly staked in the event the owner's property has such line established thereon by FDEP. NOTE: Notwithstanding the lack of markings on the ground or other staking, if the officer can readily determine linear boundaries then the officer may proceed with enforcement.
2. When there is a dispute between a member of the general public and any beach parcel owner:
- a) A Beach Community Service Officer should be dispatched to the incident to attempt to resolve the situation.

- b) If the Beach Community Service Officer cannot resolve the situation, they should call for a deputy to respond to the incident.
- c) Subject to a deputy's enforcement discretion according to the particular facts and circumstances of each incident, if the deputy cannot resolve the situation, and a person, after being asked to leave by a WCSO/beach patrol deputy, refuses to leave the private property (established in accordance with the requirements herein above), or Transitory Zone (if subject to the Walton County Customary Use Settlement Agreement), then the deputy may issue a trespass warning to the violator at the request of the beach parcel owner. If the violator still refuses to leave after the warning has been issued, then the violator may be issued a civil citation or notice to appear, and will be subject to arrest.

B. Gulf front/beach properties NOT a party to the Walton County Customary Use Settlement Agreement, and without an established ECL:

- 1. Deputies shall not enforce trespass laws in the area seaward of either (i) the wet sand areas; or (ii) seaward of the MHWL (see survey requirements above for establishment/recording of the MHWL)
- 2. All deputies shall use discretion in making decisions to cite anyone for trespassing on beach areas, based on the individual facts and circumstances of each particular case.

C. Properties with an established ECL or Beach Nourishment:

- 1. Beach Nourishment Areas with established Erosion Control Line ("ECL"): Deputies shall not enforce trespass laws anywhere in the area seaward of the ECL.
 - a) This includes Beach Parcel Owners West of Tops'1 State Park- The area of the beach which exists between Tops'1 State Park on the eastern terminus, and the Okaloosa/Walton County Line on the western terminus, inclusive.
 - b) The general public can have use of the beach south of the ECL, but will not have the ability to use the beach north of the ECL west of Tops'1 State Park to the Okaloosa/Walton County line.

D. Gulf front/beach properties subject to the Walton County Customary Use Settlement Agreement

- 1. Use of the Transitory Zone of their property by the general public shall apply to gulf front/beach property owners who entered into the Walton County Customary Use Settlement Agreement (the "Agreement"). Under the Agreement, the public is entitled to use the Transitory Zone on those properties for the following approved uses, subject to additional conditions as set forth below. The public may use the Transitory Zone for:
 - a) Walking, running, and jogging.
 - b) Access to the wet sand and water for swimming, surfing, surf fishing, and skim boarding.

- c) Sunbathing which consists of standing, sitting, or laying, either on the sand or on a beach towel or in/on a chair that is privately owned by the user and is not stored by nor associated with a third-party vendor, condominium association, townhome association, hotel, motel, bed and breakfast, or other commercial property between the hours of 9:00 am – 4:00pm, CST.
 - d) All other uses by the general public of the Transitory Zone are prohibited.
2. See Section V(A)(1) herein above for definition and requirements for enforcement actions of “Owner”.
 3. The general public is prohibited from entering onto any of the Owner’s property landward of the transitory zone.
 4. No person or entity, whether part of the General Public or an Owner, shall engage in any activity or behavior that acts to restrict Transitory Uses in the Transitory Zone as provided in the Agreement, or is otherwise a violation of law.
 - a) Owners may exercise all lawful uses of their beach parcel, including within the Transitory Zone, without the same restrictions applicable to the general public.
 - b) The right of the public to use the Transitory Zone only applies if the Owner is not actively using the portion of the Zone on their property.
 - c) Owners shall possess the right to exclude any person within the Transitory Zone if they are not respectfully conducting themselves or otherwise complying with the Agreement and the Revised Beach Activity Ordinance while engaging in the allowed uses.
 - d) Owners may enter into contracts with beach vendors to place beach chair and umbrella set ups on their beach parcel, including within the Transitory Zone, for use by the Owners.
 5. There will be no more than one person per every five feet allowed in the Transitory Zone.
 6. In the event a member of the general public begins to exercise allowed uses in the Transitory Zone, and subsequently the Owner begins or resumes active use of the Transitory Zone on their Beach Parcel, the member or members of the general public must acquiesce use in favor of the Owner upon request from the Owner.
 - a) If the above occurs, the member of the general public shall not be required to vacate the Transitory Zone unless their use interferes with the intended use of the Owner, and relocation within the Transitory Zone should be the preferred solution.
 7. Allowed uses of the Transitory Zone shall be allowed regardless of whether all or any portion of the Transitory Zone is landward or seaward of the MHWL.
 8. Any dispute arising from the Walton County Customary Use Settlement Agreement shall follow the general enforcement procedures as outlined in Section A(2) herein

above, with the Beach Community Service Officer's first attempt to involve education to the parties on the applicable provisions of the Agreement if necessary.