DISCUSSION DRAFT ONLY -- 01/29

ORDINANCE NO.

AN ORDINANCE TO AMEND THE *CODE OF ORDINANCES*, ADOPTED JULY 24, 1989, AT CHAPTER 11, CRIMINAL CODE, BY THE ADDITION OF ARTICLE VIII. EJECTION OF UNDESIRABLE GUESTS FROM VACATION RENTAL UNIT, TO PROVIDE REASONABLE PROCEDURES FOR THE EJECTION OF UNDESIRABLE GUESTS FROM VACATION RENTAL UNITS AFTER NOTICE AND TO PRESCRIBE METHODS OF ENFORCEMENT AND PENALTIES FOR VIOLATIONS

WHEREAS, the economy and character of the City of Gulf Shores is heavily dependent on the availability to visitors of short term vacation rental accommodations in single family, duplex, and multi-family structures; and

WHEREAS, the availability of such short term vacation rental accommodations is heavily dependent on the ability of the owners of such units to remove guests who may engage in illegal, destructive, or disruptive conduct while occupying such units; and

WHEREAS, the short term rental of vacation unit accommodations in single family, duplex, and multi-family structures is a form of transient occupancy not regulated under the Alabama Uniform Residential Landlord and Tenant Act or under the regulation of Hotels, Inns, and Other Transient Lodging Places as provided in Chapter 15 of Title 34 of the Code of Alabama; and

WHEREAS, the Council of the City of Gulf Shores has identified the need to establish reasonable procedures for the peaceful summary ejection of guests engaging in types of behavior that are materially detrimental to the availability of short term vacation rental accommodations and materially harmful to the public safety and general welfare of the community; and

WHEREAS, pursuant to Ala. Code § 11-45-1 the City has the general power and authority to enact ordinances to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the inhabitants of the municipality, and to enforce obedience to such ordinances,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON _____, 2016, as follows:

Section 1. That Chapter 11, Criminal Code of the *Code of Ordinances*, adopted July 24, 1989, be and it is hereby amended by the addition of Article VIII, EJECTION OF UNDESIRABLE GUESTS FROM VACATION RENTAL UNIT reading its entirety as follows:

Article VIII. EJECTION OF UNDESIRABLE GUESTS FROM VACATION RENTAL UNIT

Section 11-100 Ejection of undesirable guests from Vacation Rental Unit; notice; procedure; penalties for refusal to leave.—

(a) Definitions

As used in this Section, the following terms shall have the following definitions:

"Vacation Rental Unit" or "Unit" shall mean any dwelling unit or other accommodation located in a single family structure, duplex structure, or multi-family structure within the corporate limits or police jurisdiction of the City that is (1) duly licensed by the City for vacation rental occupancy and (2) occupied by a Guest or Guests pursuant to a written vacation rental agreement. Vacation Rental Unit shall not include any sleeping unit or other accommodation in any hotel, motel, condotel, or other establishment or accommodation included within the definition of "hotel" in Chapter 15 of Title 34 of the Code of Alabama.

"Vacation rental occupancy" shall mean occupancy under any lease, sublease, rental, or other licensing of the use of a Vacation Rental Unit for any period of fewer than one hundred eighty (180) consecutive days.

"Written vacation rental agreement" shall mean a written agreement allowing the vacation rental occupancy of a dwelling unit in a single family, duplex, or multi-family structure for a fixed term of days with a specific date and time for departure, with no

provision for automatic renewal of the term or for renewal of the term solely at the option of the occupant, and with a prominently displayed statement reading substantially as follows:

"This is a vacation rental agreement subject to the provisions of Section 11-100 of the Code of Ordinances of the City of Gulf Shores. Guest expressly acknowledges and accepts the right of owner or owner's authorized agent to remove or cause the removal of Guest and Guest's invitees and permittees from the premises for any of the reasons enumerated, and in the manner provided, in Section 11-100."

"Guest" shall mean any person entering into the written vacation rental agreement with the owner with respect to the Unit.

"Premises" shall mean the interior of a Unit, the exterior porches, decks, balconies, and yards of a Unit, and all condominium common and limited common areas in the case of a Unit located in a multi-family structure.

(b) The owner of any Vacation Rental Unit or the owner's authorized agent may remove or cause to be removed from the premises of such Unit, in the manner hereinafter provided, any Guest, together with any other person present on the premises of the Unit as the invitee or permittee of the Guest, if the Guest or any other person, while on the premises of the Unit,

(1) illegally possesses or deals in controlled substances as defined under any statute of the State of Alabama;

(2) is intoxicated, profane, lewd, or brawling;

(3) is illegally in possession of alcoholic beverages;

(4) indulges in any language or conduct which disturbs the peace and comfort of the occupants of neighboring accommodation units;

(5) engages in or allows any intentional or wanton misconduct resulting or likely to result in material damage to the premises of the Unit or its furnishings;

(6) allows occupancy of the Unit by a number of persons exceeding the maximum permitted occupancy number, if any, specified in the written vacation rental agreement; or

(7) fails to check out by the time agreed upon in writing by the Guest at check-in unless an extension of time has been agreed to by the owner of the Unit or the owner's authorized agent and the Guest prior to scheduled checkout.

(c) The owner of the Vacation Rental Unit or the owner's authorized agent shall notify such Guest or Guests that the owner no longer desires to accommodate the Guest or Guests and their invitees and permittees and shall request that each such Guest and all of their invitees and permittees immediately depart from the premises of the Unit. Such notice may be given orally or in writing to the Guest. If the notice is in writing, it shall be substantially as follows:

"You are hereby notified that the owner of this Vacation Rental Unit no longer desires to accommodate you as a guest, and you are requested to leave at once. Any person remaining or attempting to remain on the premises of the Unit after your receipt of this notice is chargeable with a criminal offense under the ordinances of the City of Gulf Shores punishable upon conviction by fine not exceeding $500.00, imprisonment for a term not exceeding 6 months, or both."

If the Guest is not present in the Unit at the time notification is attempted, the required notice may be given by posting the notice in writing on the front door of the Unit, endorsed with the date and time of posting.

Except as otherwise provided in the written vacation rental agreement, i~~I~~f such Guest has paid in advance, the owner or the owner's authorized agent, at the time such notice is given, shall tender to such Guest the unused portion of the advance payment; provided, however, payment of a full day's rent or fee for the remaining portion of the day of the Guest's departure may be withheld and any amount reasonably necessary to cover any observed damage to the Unit exceeding the amount of any security deposit then held by the Unit may also be withheld.

(d) Any person who remains or attempts to remain on the premises of any Vacation Rental Unit after the notice described in subsection (c) has been given to the Guest and after such person has personally been requested to leave shall be guilty of an offense, punishable as provided in Section 1-8(a) of the Code of Ordinances.

(e) If any person is illegally on the premises of any Vacation Rental Unit in violation of subsection (d) above, the owner or owner's authorized agent may call upon any law enforcement officer of this state for assistance. Such law enforcement officer, may upon the request of such owner or owner's authorized agent, place under arrest and take into custody for violation of this section any person who violates subsection (d)in the presence of the officer; provided, however, (1) no such arrest shall be made in the absence of the production to the officer by the owner or the owner's agent of a copy of a written vacation rental agreement conforming to the requirements of this Section and (2) no such arrest shall be made in the absence of a determination by the officer that probable cause exists to believe that misconduct as listed in subsection (b) (1) through (6) has occurred, that notice and a request for the person to leave as provided in subsections (c) and (d) have been given, and that the violator has been afforded a reasonable period of time to remove his or her personal property and vacate the premises. Arrest for violation of subsection (d) based on alleged misconduct as described in subsection (b)(7) shall be made only upon warrant issued by the magistrate upon the sworn complaint of the owner or the owner's authorized agent. If a warrant has been issued by a magistrate for the arrest of any alleged violator of subsection (d) upon the sworn complaint of the owner or the owner's authorized agent, the officer shall serve the warrant and may arrest the person and take the person into custody. Upon arrest, with or without warrant, the Guest shall be deemed to have given up any right to occupancy or to have abandoned such right of occupancy of the premises, and the owner of the Facility may then make such premises available to other guests. However, the owner of the Facility shall employ all reasonable and proper means to care for any personal property which may be left on the premises by such Guest and shall refund any unused portion of moneys paid by such Guest for the occupancy of such premises.

Section 2. That this Ordinance shall not be interpreted to repeal any other ordinance of the City of Gulf Shores or any provision of the law of Alabama adopted by operation of Section 1-8 of the City's Code of Ordinances.

Section 3. That the provisions of this Ordinance are severable and a determination of the invalidity of any portion of this Ordinance shall not affect the validity and enforceability of the remainder of the Ordinance.

Section 4. That this Ordinance shall become effective upon its adoption and publication as required by law.

ADOPTED this __th day of _____, 2016.

_____
Robert Craft, Mayor

ATTEST:

_____
Wanda Parris, MMC, City Clerk