

ORDINANCE NO. 1792

**AN ORDINANCE TO AMEND THE *CODE OF ORDINANCES*,
ADOPTED JULY 24, 1989, AT CHAPTER 6, BEACHES, BOATS, AND WATERWAYS,
ARTICLE I. IN GENERAL, AT SECTION 6-13 TO FURTHER REGULATE ERECTION OF
TENTS AND SHELTERS AND ABANDONMENT OF BEACH EQUIPMENT ON THE
PUBLIC BEACH AND CERTAIN OTHER PORTIONS OF GULF FRONT BEACHES,
DIGGING OF HOLES ON SUCH BEACHES, AND SOLICITATION AND RELATED
ACTIVITIES ON SAND AREAS OF THE PUBLIC BEACH, AND TO PRESCRIBE
METHODS OF ENFORCEMENT AND PENALTIES FOR VIOLATIONS**

WHEREAS, the City of Gulf Shores has established and maintains a beach project on its Gulf front beaches pursuant to Ala. Code §§ 11-47-250-252 on all areas lying seaward of the Construction Control Line ; and

WHEREAS, pursuant to Ala. Code § 11-47-251 the City has the specific power and authority to maintain, regulate and protect the beach project and to make and enforce rules and regulations governing the use of and activities upon the areas included within the beach project; 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; and

WHEREAS, the City Council has determined that further provision should be made to regulate the use of and activities upon the areas included within the beach project and upon public beaches generally,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON OCTOBER 26, 2015, as follows:

Section 1. That Article I of Chapter 6, Beaches, Boats, and Waterways of the *Code of Ordinances*, adopted July 24, 1989, be and it is hereby amended by the amendment of Section 6-13 to read in its entirety as follows:

Sec. 6-13. - Erection of tents and shelters and abandonment of beach equipment on public beaches and certain other portions of Gulf front beaches prohibited; digging of holes on Gulf front beaches and the public beach regulated; solicitation and related activities on sand areas of the public beach prohibited; methods of enforcement and penalties for violations prescribed.

(a) Definitions: As used in this section 6-13, the following terms shall have the following meanings:

Beach equipment shall mean any personal items that are designed or manufactured for use, or actually used, on the beach or in adjacent waters. Examples include, without limitation, chairs, loungers, umbrellas, tents or shelters of any size, horseshoes and stakes, kayaks, paddle vessels, sailboards, surf boards, fishing gear, sporting equipment, rafts, flotation devices, beach toys, baskets, bags, towels, coolers, and other personal effects and items. Beach equipment shall not include chair setups or permitted storage facilities as defined in Section 8-8(e) of the Code of Ordinances maintained on its licensed site by a duly licensed beach chair rental business or personal watercraft, towables, or permitted storage facilities as defined in Section 8-8(e) of the Code of Ordinances maintained on its licensed site by a duly licensed beachfront recreational business.

Lucido and Oliver Line shall mean the mean high tide line designated on that certain Mean High Tide Line Survey Base Map recorded in the Probate Records of Baldwin County, Alabama at Slides 2015E, 2015F, 2016A, 2016B, 2016C, 2016D, and 2016E. Appropriate markers designating the location of such line as determined by the city shall be installed by the city prior to the issuance of any separate citation under subsection (f) below for violation of subsection (b)(1) below. The enforcement

of subsection (g) below shall commence immediately without regard to whether the installation of such markers has yet taken place.

Public beach shall mean any area included within any of the following areas:

- (1) An area bounded on the north by the south right-of-way line of Alabama Highway 182, on the east by the east right-of-way line of East First Street, on the south by the Gulf of Mexico, and on the west by the west right-of-way line of West 2nd Street.
- (2) An area three hundred (300) feet wide extending southward from the south right-of-way line of Alabama Highway 182 to the Gulf of Mexico, bounded on the east by the west right-of-way line of West 2nd Street and bounded on the west by a line which lies three hundred (300) feet west of and parallel to the west right-of-way line of West 2nd Street.
- (3) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 4th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.
- (4) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 5th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.
- (5) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 6th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.
- (6) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 10th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.
- (7) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 12th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.
- (8) An area bounded on the east and west, respectively, by the east and west rights-of-way lines of West 13th Street, on the north by the south right-of-way line of Alabama Highway 182, and on the south by the Gulf of Mexico.
- (9) The public area at Little Lagoon Pass north of the north right-of-way line of Alabama Highway 182 to Little Lagoon and south of the south right-of-way line of Alabama Highway 182 to the Gulf of Mexico, being a strip approximately one hundred (100) feet wide on the south side of Alabama Highway 182, centered on the centerline of the channel, and on the north side of Alabama Highway 182, a strip approximately two hundred (200) feet wide centered on the extended centerline of the channel, and extending in a northerly and southerly direction from the Gulf of Mexico to Little Lagoon.
- (10) An area north of the north right-of-way line of Alabama Highway 182 (three hundred thirty (330) feet frontage on West Beach Boulevard) extending to Little Lagoon, bounded on the west by the pass from Little Lagoon into the Gulf of Mexico, the shape being irregular and containing approximately 4.1 acres; and an area south of the south right-of-way line of Alabama Highway 182 to the Gulf of Mexico consisting of Lots 3 and 4 of Resubdivided Lots 24, 25, and 26 of Unit 6.
- (11) An area consisting of 3.83 acres more or less bounded on the north by the south right-of-way line of Alabama Highway 182, on the south by the Gulf of Mexico, on the west by East 1st Street, and consisting of part of Lots 1 and 2, and all of Lots 3, 4, 5, and 6, Block 9, Unit 1 adjacent on the west to land occupied by Pink Pony Pub and Phoenix All Suites.

Tent or shelter shall mean any tent, shelter, canopy, cabana, windscreen, or other supported ground cover or enclosure and shall also mean the frame, support poles, guy lines, and other support features for a tent or shelter when the covering is not attached; provided, however, that the term shall not include any folding beach umbrella supported by a single pole; any umbrella or shade attached solely to a beach chair, to a child's stroller, or to a wheel chair designed for beach use by handicapped persons; or any pop-up type freestanding tent or shelter designed for beach use having no length or width dimension greater than seven (7) feet and no height dimension greater than four (4) feet.

Beach Project Fencing shall mean the sand stabilization fencing installed and maintained by the City as part of the Beach Project established on the Gulf front beaches within the corporate limits of the City of Gulf Shores under the authority of Article 11 of Chapter 47 of Title 11 of the Code of Alabama.

Construction Control Line shall mean the Construction Control Line as defined in Section 7-121(a) of the Code of Ordinances as now or hereafter in effect.

(b) Prohibited and regulated activities

(1) Areas where tents and shelters strictly prohibited. No tent or shelter shall at any time be erected (1) on any public beach or (2) south of the Lucido and Oliver line on any Gulf front beach within the corporate limits of the City of Gulf Shores.

(2) Areas where no beach equipment may be erected, utilized or stored. No item of beach equipment shall at any time be erected, utilized, or stored within the area north of the Beach Project Fencing and south of the Construction Control Line on any Gulf front beach within the corporate limits of the City of Gulf Shores; provided, however, that this subsection (b)(2) shall not prohibit the erection, utilization, or storage of beach equipment on any portion of such area lying beneath any habitable structure existing south of the Construction Control Line.

Any item determined by a law enforcement officer or beach inspector to be erected, utilized, or stored in violation of this subsection (b) may be impounded and stored by the City if the owner or permitted user of the item fails or refuses to remove the item after being directed by the officer or inspector to effect such removal or if the owner or permitted user cannot be immediately identified and notified by the officer or inspector.

(3) Digging of holes regulated.

(A) No person shall dig any hole within the area north of the Beach Project Fencing and south of the Construction Control Line on any Gulf front beach within the corporate limits of the City of Gulf Shores.

(B) No person shall dig any hole to a depth greater than twelve (12) inches on any public beach or on any portion of any Gulf front beach within the corporate limits of the City of Gulf Shores lying south of the Beach Project Fencing.

(C) Any hole dug on any public beach or on any portion of any Gulf front beach within the corporate limits of the City of Gulf Shores lying south of the Beach Project Fencing shall at all times be attended by a responsible person over the age of sixteen (16) years or well and appropriately marked so as to prevent injury from the presence of the hole.

(D) Any hole dug on any public beach or on any portion of any Gulf front beach within the corporate limits of the City of Gulf Shores lying south of the Beach Project Fencing shall be properly filled to a condition level with the adjacent sand upon abandonment of the use of the hole and in all events by not later than thirty (30) minutes prior to sunset.

(4) Solicitation and related activities prohibited on sand areas within public beach.

Without addressing all issues relating to the entirety of the area included within the public beach as defined, the City Council of the City of Gulf Shores finds and confirms that the sand areas within the public beach as defined are now and have historically been set aside only for the restorative and recreational enjoyment of the public and that such sand areas do not constitute a forum for public communication by tradition or designation. Except as may be otherwise specifically authorized by the City in a public assembly permit for a franchised festival activity at the public beach, it shall be unlawful for any person to solicit, peddle, canvass, beg, panhandle, proselytize, picket or demonstrate for any purpose, commercial or noncommercial, while on the beach sand areas of the public beach.

(c) Beach items to be removed daily; items not removed by owner or user subject to removal and disposal by city.

Except as otherwise specifically authorized by the City in a special events or assembly permit with respect to the erection and use of tents and temporary shelters, no item of beach equipment not otherwise prohibited under subsection (b) shall be placed or remain (1) on any public beach or (2) any portion of any Gulf front beach within the corporate limits of the City of Gulf Shores lying south of the Beach Project Fencing before sunrise. Each item of such beach equipment shall be removed by its owner or permitted user from any public beach or any portion of any Gulf front beach within the corporate limits of the City of Gulf Shores lying south of the Beach Project Fencing by one hour after sunset. Any item of such beach equipment found on any public beach or any portion of any Gulf front beach within the corporate limits of the City of Gulf Shores lying south of the Beach Project Fencing between one hour after sunset and sunrise may be treated by the City as abandoned property and removed and disposed of by the City as abandoned property.

(d) Failure or refusal to comply with instructions of officer or inspector.

(1) No person shall fail or refuse to remove an item of beach equipment erected, owned, stored, or in use by such person in violation of subsection (b) or (c) above after being directed to effect such removal by a law enforcement officer or beach inspector.

(2) No person shall fail or refuse to discontinue activities in violation of subsection (b)(4) above after being directed to cease such activities by a law enforcement officer or beach inspector.

(e) Enforcement by beach inspectors. In addition to enforcement by law enforcement officers of the city, the mayor shall appoint a sufficient number of city employees as beach inspectors to ensure proper enforcement of this section. Such beach inspectors shall not be law enforcement officers or peace officers within the meaning of state law and shall not have authority as officers of the city to make arrests. Such beach inspectors shall be authorized only to direct compliance with this section, to issue citations for violations of this section, to impound items determined by them to be prohibited property pursuant to subsection (b) above, and to remove and dispose of items determined by them to be abandoned property pursuant to subsection (c) above.

(f) Penalty for violation of subsection (b) or (c). Any person violating subsection (b) or (c) of this section, or both, shall be guilty of an offense and, upon conviction, shall be punished for each offense by a fine of fifty dollars (\$50.00). In addition, costs of two dollars (\$2.00) shall be taxed for each contested disposition of an offense defined in subsection (b). Such offenses and fine and cost amounts are hereby made a part of the schedule of municipal offenses, fines, and costs authorized under Alabama Rules of Judicial Administration 20(c).

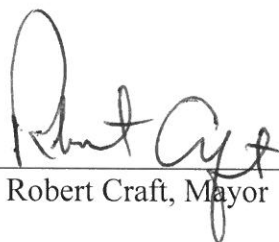
(g) Penalty for violation of subsection (d). Any person violating subsection (d) of this section shall be guilty of an offense and upon conviction, shall be punished for each offense by a fine of not more than five hundred dollars (\$500.00), imprisonment for a period not exceeding six (6) months, or both.

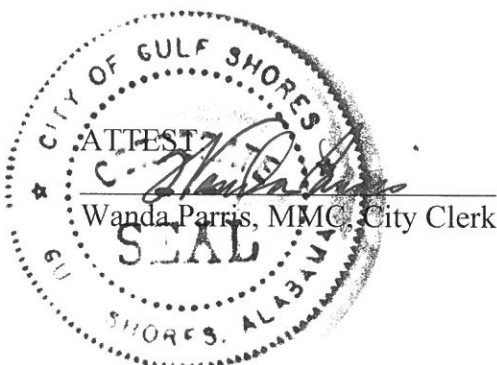
Section 2. That this Ordinance shall not be interpreted to repeal any other ordinance of the City of Gulf Shores or any provision of the law of Alabama adopted by operation of Section 1-8 of the City's Code of Ordinances.

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 26th day of October, 2015.


Robert Craft, Mayor



CERTIFICATE

I, Wanda Parris, MMC, City Clerk of the City of Gulf Shores, Alabama, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1792 (prepared by City Clerk), which Ordinance was duly and legally adopted at a regular meeting of the City Council on October 26, 2015, and the same was duly published as required by law.



City Clerk