

**MINUTES OF A SPECIAL MEETING
OF THE CITY COUNCIL
OF THE CITY OF GULF SHORES, ALABAMA**

The City Council of the City of Gulf Shores met in special public session in the City of Gulf Shores, Alabama at 4:00 p.m. on the 1st day of February, 2010.

Present: Robert Craft, Mayor
 Joe Garris
 Carolyn Doughty
 Philip Harris
 Jason Dyken
 Stephen E. Jones

Absent: None

The invocation was delivered by Councilmember Steve Jones. The Pledge of Allegiance to the flag was led by Mayor Craft.

The Mayor stated that a quorum was present and that the meeting was open for the transaction of business. The Mayor stated that a copy of a legal notice entitled "NOTICE OF PUBLIC HEARING" had been published in *The Islander*, the newspaper of the largest circulation in the City, on January 23, 2009.

The Mayor noted that the purpose of the public hearing was to consider the Saunders Project and the Agreement Regarding Advance and Repayment of EDA Assistance Award Matching Funds. The Mayor then generally described the nature of the Saunders Project and the aforementioned agreement. The Mayor then asked if any member of the public wished to address the Council. The following individuals addressed the Council:

<u>Name</u>	<u>Address</u>	<u>Comments</u>
None		

The members of the Council then asked a number of questions about the Saunders Project and the foregoing agreement. After discussion of the aforementioned agreement, Councilmember Doughty moved for unanimous consent of the Council to suspend the rules of procedure to allow for the immediate consideration of the following Resolution:

RESOLUTION NO. 4745-10

**A RESOLUTION
MAKING CERTAIN FINDINGS
PURSUANT TO AMENDMENT NO. 750 TO THE
CONSTITUTION OF ALABAMA (1901); AND
AUTHORIZING A DOCUMENT
RELATED TO THE SAUNDERS PROJECT**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, as follows:

SECTION 1. Approval of Expenditure of Public Funds.

The City of Gulf Shores (the "City"), at its public hearing on this date and in accordance with Alabama Constitutional Amendment No. 750 hereby finds and determines that the proposed expenditure of public funds for the Saunders Project as described in the Agreement Regarding Advance and Repayment of EDA Assistance Award Matching Funds (the "Agreement") between the City and Saunders Engine & Equipment Company, Inc. ("Saunders") will serve valid and sufficient public purposes, notwithstanding any incidental benefits accruing to Saunders or any other private party. The public benefits sought to be achieved by the adoption of the foregoing agreement is expected to include without limitation: (i) the construction of the Saunders Project,

(ii) the construction of infrastructure useful in attracting future marine businesses to the area described as the Marine Center Site, (iii) location of additional marine related companies to the Marine Center Site and (iv) the increase of tax revenues and employment opportunities within the City.

SECTION 2. Approval of Agreement.

The City hereby authorizes, adopts and approves the Agreement in substantially the form and of substantially the content as the form of the Agreement presented to and considered at this meeting (a copy of which has been ordered filed in the permanent records of the City in the custody of the City Clerk) with such changes and additions thereto and deletions therefrom as the Mayor shall approve, which approval shall be evidenced by his executing the Agreement, and the Mayor is hereby authorized, in the name and on behalf of the City, to execute, acknowledge, and deliver the Agreement, and the City Clerk is hereby authorized and directed to affix to such agreement the seal of the City and to attest the same.

SECTION 3. Availability and Review of Agreement.

A copy of such Agreement shall be available for review and inspection at the office of the City Clerk.

SECTION 4. Five Day Posting Period.

This resolution shall be posted at City Hall, the Adult Activity Center, and the Public Library, and shall remain so posted for not less than five days. This resolution shall also be published in *The Islander*.

The motion for unanimous consent was seconded by Councilmember Dyken and upon the question, the vote thereon was as follows:

Ayes: Robert Craft, Mayor
 Joe Garris
 Carolyn Doughty
 Philip Harris
 Jason Dyken
 Stephen E. Jones

Nays: None

The Mayor declared the motion carried and the rules suspended.

After said resolution had been discussed and considered in full by the Council, Councilmember Doughty then moved for the adoption of Resolution No. 4745-10. The motion was seconded by Councilmember Dyken. The motion was regularly put and, upon roll call, the vote thereon was as follows:

Ayes: Robert Craft, Mayor
 Joe Garris
 Carolyn Doughty
 Philip Harris
 Jason Dyken
 Stephen E. Jones

Nays: None

The Mayor thereupon declared said motion carried and the resolution passed and adopted as introduced and read.

Councilman Dyken introduced and moved for the adoption of the following Resolution:

RESOLUTION NO. 4746-10

**A RESOLUTION AUTHORIZING
THE MAYOR AND CITY CLERK
TO EXECUTE AND ATTEST, RESPECTIVELY,
FINANCIAL ASSISTANCE AWARD WITH
UNITED STATES DEPARTMENT OF COMMERCE,
ECONOMIC DEVELOPMENT ADMINISTRATION,
TO FACILITATE OBTAINING FINANCIAL ASSISTANCE
FOR CONSTRUCTION OF DRY DOCK BASIN
FOR MAINTENANCE OF OCEAN GOING VESSELS
IN THE AMOUNT OF \$4,758,400.00**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN SPECIAL SESSION ON FEBRUARY 1, 2010, as follows:

Section 1. That the Mayor and City Clerk be and they are hereby authorized and directed to execute and attest, respectively, the Financial Assistance Award with the United States Department of Commerce, Economic Development Administration, as well as any related documents, to facilitate obtaining financial assistance to construct a dry dock basin for maintenance of ocean going vessels (Project Task 0406269-000) in the amount of \$4,758,400.00.

Section 2. That this Resolution shall become effective upon its adoption.

The motion for the adoption of Resolution No. 4746-10 was seconded by Councilman Jones; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "aye," Councilman Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Whereupon, the Mayor declared Resolution No. 4746-10 duly and legally adopted.

Councilman Jones introduced and moved for the adoption of the following Resolution:

RESOLUTION NO. 4747-10

**A RESOLUTION AUTHORIZING AND DIRECTING THE
MAYOR AND CITY CLERK TO EXECUTE
AND ATTEST, RESPECTIVELY,
AGREEMENT WITH SOUTH ALABAMA
REGIONAL PLANNING COMMISSION
FOR ADMINISTRATION OF
UNITED STATES DEPARTMENT OF COMMERCE GRANT
FOR CONSTRUCTION OF DRY DOCK BASIN**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN SPECIAL SESSION ON FEBRUARY 1, 2010, as follows:

Section 1. That the Mayor and City Clerk be and they are hereby authorized and directed to execute and attest, respectively, an Agreement between the City of Gulf Shores and the South Alabama Regional Planning Commission for administration of the United States Department of Commerce, Economic Development Administration Grant, for construction of a dry dock basin; in substantially the form presented to Council this date.

Section 2. That this Resolution shall become effective upon its adoption.

The motion for the adoption of Resolution No. 4747-10 was seconded by Councilman Garris; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "aye," Councilman Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Whereupon, the Mayor declared Resolution No. 4747-10 duly and legally adopted.

Councilman Garris introduced and moved for the adoption of the following Resolution:

RESOLUTION NO. 4748-10

**A RESOLUTION RETROACTIVELY
ELECTING CITY CLERK; PROVIDING FOR
SALARY AND BENEFITS; AND
AUTHORIZING INCENTIVE RETIREMENT BENEFITS**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN SPECIAL SESSION ON FEBRUARY 1, 2010, AS FOLLOWS:

Section 1. That Renee Moore is hereby elected City Clerk with a term commencing on November 1, 2008 and continuing thereafter until November 1, 2012, and thereafter until her successor is elected and qualified.

Section 2. That the salary of the City Clerk commencing November 1, 2008 shall be \$60,662.16, together with such employment fringe benefits as the City otherwise provides for Category Code B City employees. During the term specified in Section 1 above, the City Clerk's salary shall be subject to such prospective increases as may be authorized by the City Council from time to time. In addition, once the City Clerk has attained the age of 60 and is qualified to draw retirement benefits under the City's retirement plan, the City Clerk may elect to retire prior to the expiration of the term provided in Section 1 above in consideration of the receipt of an early retirement incentive benefit package consisting of the following:

Service credit payment of one (1) week of pay for every two (2) years of service to the City through the 15th day of April, 2010 to be made by the end of April 2010.

Payment of accumulated sick leave and vacation leave through April, 2010 to be made by the end of April 2010.

Continuation of coverage under the City's health insurance plan as in effect from time to time hereafter for the employee and the employee's spouse on April 15, 2010, if any, until each

reaches age 65 or is sooner eligible for Medicare coverage, with the total premium cost of such coverage to be paid by the employee.

Payment of service credit and accumulated sick and vacation leave is authorized to be made by the end of April 2010.

Section 3. That this Resolution shall become effective upon its adoption, with effect retroactive to November 1, 2008.

The motion for the adoption of Resolution No. 4748-10 was seconded by Councilman Jones; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, "aye," Councilman Harris, "aye," Councilman Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Whereupon, the Mayor declared Resolution No. 4748-10 duly and legally adopted.

Councilman Harris moved for unanimous consent of the Council to suspend the rules of procedure to allow for the immediate consideration of the following Ordinance with revisions as discussed:

ORDINANCE NO. 1586

**AN ORDINANCE TO AMEND THE *CODE OF ORDINANCES*,
ADOPTED JULY 24, 1989, AT CHAPTER 8, BUSINESS LICENSES, TAXES, AND
REGULATIONS, ARTICLE I, IN GENERAL, TO AMEND SECTION 8-8 RELATING
TO GASOLINE-POWERED WATERSPORTS EQUIPMENT RENTAL BUSINESSES
TO FURTHER REGULATE SUCH BUSINESSES AND TO REGULATE IN ADDITION
BUSINESSES PROVIDING RECREATIONAL PARASAIL RIDES, RECREATIONAL
TOWED WATER RIDES AND BEACH EQUIPMENT RENTAL SERVICES**

WHEREAS, the City Council of the City of Gulf Shores has determined that the provision of beachfront and waterfront recreational rides and rentals by businesses within the corporate limits and police jurisdiction of the City is a desirable amenity for the benefit of the residents and visitors to the City; and

WHEREAS, the City Council has determined that the business of the provision of beachfront and waterfront recreational rides and rentals must be reasonably regulated and limited in the interests of public safety and common public enjoyment of the beachfront and waterfront within the City and its police jurisdiction,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN SPECIAL SESSION ON FEBRUARY 1, 2010, as follows:

Section 1. That Section 8-8 of Article I of Chapter 8, BUSINESS LICENSES, TAXES, AND REGULATIONS, of the *Code of Ordinances*, adopted July 24, 1989, be and it is hereby amended to read in its entirety as follows:

Sec. 8-8. Beachfront and Waterfront Recreational Businesses; Businesses engaging in the business of rental of gasoline-powered watersports equipment, engaging in the business of provision of recreational parasail rides, engaging in the business of provision of towed water ride services utilizing water craft or gasoline-powered watersports equipment, or engaging in the business of the on-site rental of beach chairs and umbrellas authorized and regulated.

(a) Businesses engaging in the business of rental of gasoline-powered watersports equipment.

Any license issued to any person engaged in the business of the rental of gasoline-powered watersports equipment, including, without limitation, jet skis, wave runners, waveriders, and other personal watercraft (hereafter referred to as "Rental Craft") is expressly conditioned on compliance with all the following requirements:

(1) The licensee's business shall be operated only at a site with direct open water access properly zoned for such business, owned by, leased in writing to, or licensed in writing to the licensee and specifically designated on the license as issued. The minimum separation distance allowed between any water access sites licensed or proposed to be licensed under subsections (a), (b), or (c) of this Section 8-8 shall be seven hundred fifty (750) feet. Such businesses may not be operated with a vessel or barge as a designated site. The licensee's customers must take possession of the Rental Craft at the designated site, and licensee shall not deliver any Rental Craft to a customer at any off-site location within the city or its police jurisdiction.

(2) The rental site must be marked with a water ingress and egress corridor a minimum of twenty five (25) feet and a maximum of fifty (50) feet in width, delineated by two (2) orange and white buoys clearly marked "Idle Speed Only," at a distance of three hundred (300) feet from the beach, two (2) orange and white buoys at a distance of two hundred (200) feet from the beach marked "Caution: No Swimming," two (2) orange and white buoys at a distance of one hundred (100) feet from the beach marked "Caution: No Swimming," and two (2) orange cones a minimum of twenty eight (28) inches tall at water's edge. Said buoys must be a minimum of twelve (12) inches in diameter and must be maintained by the licensee. The location of the water ingress and egress corridor relative to the boundaries of the rental site must be approved by the City prior to the issuance of the license. Appropriate signage visible to persons approaching the site shall be posted at the water's edge corners of the site reading "Caution: Surf Vessels in Operation." The rental site shall be kept clear of sunbathers and all persons not associated with the licensed operation.

(3) Renters must exit and return to the rental site only through the required corridor and must enter and exit the corridor from the water side only at the marked seaward end of the corridor. The maximum allowable speed in the corridor is idle speed or the slowest speed at which the operator can effectively control the Rental Craft and maintain steerage at all times. The operator must yield the right-of-way to any swimmers present.

(4) All renters and passengers regardless of age shall at all times wear a properly fitted and securely fastened USCG approved Personal Flotation Device (PFD), which must be donned prior to boarding the Rental Craft.

(5) All Rental Craft shall be subject to the limitation of number of passengers and weight capacity requirements as designated by the manufacturer.

(6) The licensee shall comply with the municipal surf condition flag warning system and shall suspend all operations when double red flags are displayed. In addition, licensee shall not allow any renter or other person to operate a Rental Craft in conditions licensee should reasonably find to be unsafe including but not limited to heavy surf, excessive wind, strong currents, rain, heavy fog, during a lightning storm within five (5) miles of the rental site, during an active small craft warning alert, or if it becomes evident that a storm frontal system is approaching within seven (7) miles of the rental site.

(7) The licensee shall not rent any Rental Craft to any person under the age of nineteen (19) years, any person who appears to be under the influence of alcohol or drugs, or any person who does not have a current Vessel Operator's License issued by the State of Alabama or, in the case of a person who is not an Alabama resident, issued by the state of the person's permanent residence if such state requires a license or permit for the operation of such Rental Craft. The licensee shall not permit the operation of any Rental Craft by any person under the age of sixteen (16) years, any person who appears to be under the influence of alcohol or drugs, or any person who does not have a current Vessel Operator's License issued by the State of Alabama or, in the case of a person who is not an Alabama resident, issued by the state of the person's permanent residence if such state requires a license or permit for the operation of such Rental Craft.

(8) The rental site must at all times be equipped with the following, maintained in good and proper operating condition:

- (A) A chase/rescue vessel equipped with a towline and appropriate and visible markings identifying the vessel or vessel operator as the licensee's chase/rescue vessel;
- (B) An electronic voice hailer, electronic megaphone, or whistle for the purpose of communication with vessels, swimmers, and customers;
- (C) Appropriate and visible signage posted at the water's edge corners of the rental site, and displayed to persons approaching the site reading "Caution: Surf Vessels in Operation;"
- (D) Rental agreements and/or appropriate visible signage readily observable by customers listing the rules of equipment operation, including, without limitation, the following:

- (i) "Rental of gasoline-powered watersports equipment to persons under nineteen (19) years of age, persons not possessing a current valid State of Alabama Vessel Operator's License or the equivalent current certification, if any, issued by the state of the person's permanent residence if other than Alabama, or to persons under the influence of alcohol or drugs is prohibited by city ordinance."

- (ii) "Operation of rented gasoline-powered watersports equipment by persons under sixteen (16) years of age, persons not possessing a current valid State of Alabama Vessel Operator's License or the equivalent current certification, if any, issued by the state of the person's permanent residence if other than Alabama, or persons under the influence of alcohol or drugs is prohibited by city ordinance."

- (iii) "Operation of gasoline-powered watersports equipment in a reckless or negligent manner is a violation of state law punishable by up to a five hundred dollar (\$500) fine and imprisonment for up to six (6) months."

- (iv) "Operators and passengers must wear Coast Guard approved life vests at all times."

(9) The licensee shall not knowingly allow any of licensee's Rental Craft to be operated in a reckless or negligent manner and shall immediately reclaim from licensee's customer any Rental Craft licensee knows or is reliably informed has been operated in such manner.

(10) The licensee shall provide a mandatory Passenger Safety Briefing to all individual renters and passengers before they are allowed to leave the beach on a Rental Craft. This briefing shall include, without limitation:

- (A) A description of the activity.
- (B) The safety precautions and use restrictions while underway;
- (C) The location and proper use of safety and life saving equipment;
- (D) Warnings and procedures for unexpected events such as equipment malfunctions,
- (E) The proper use of signals;
- (F) Regulations pertaining to idle speed zones and the punishment for careless or reckless operation.

The licensee shall not rent any Rental Craft to any person or allow the operation or passenger use of any Rental Craft by any person who does not demonstrate an understanding of the information and procedures covered in the Passenger Safety Briefing or who demonstrates an unwillingness or inability to comply with such procedures. The licensee shall take all steps necessary to exclude from operation or passenger use any person who appears fearful or intimidated.

(11) The licensee shall maintain a daily rental log containing the following information regarding each Rental Craft:

- (A) The name, address, telephone number, vessel operator's license number, and date of birth of the customer.
- (B) The item of equipment rented by the customer and the fee charged.
- (C) The time the customer took possession of the rental item and the time the item was returned to the possession of the licensee.
- (D) The customer's signature verifying the presentation of the Passenger Safety Briefing to the customer and any proposed passenger.

The current month's daily rental log shall be maintained at licensee's rental site during the hours of the licensee's operation and shall be presented for inspection upon request of any federal, state, county, or municipal enforcement officer. The daily rental log entries shall be retained by the licensee for a period of not less than five (5) years.

(12) The licensee shall affix and maintain on each Rental Craft a suitable marking of distinctive color and size as approved by the the appropriate City official as designated by the Mayor so as to render the item identifiable as licensee's rental equipment at a distance of up to three hundred (300) feet.

(13) The licensee shall comply with all fuel container and portable tank storage regulations as adopted by the Gulf Shores Fire Department from time to time, which include but are not limited to:

(A) Fueling must take place on stable ground clear of the water's edge. No refueling of any vessel shall take place in the water, and no spillage of fuel shall occur.

(B) A maximum of fifteen (15), five (5) gallon spill proof fuel containers totaling no more than seventy-five (75) gallons of fuel may be on the beach at any one time. No container with a capacity greater than five (5) gallons shall be allowed on site. No fuel shall be stored in any parking area, and no fuel shall be stored on site overnight. A fueling and fuel storage plan shall be submitted and approved by the City prior to the issuance of any license.

(C) Use of either a fuel collar or fuel bib while fueling is required.

(D) A minimum of ten (10) 15"x15" absorbent hydrocarbon pads and one (1) portable fire extinguisher with no less than a 60BC rating must be on site while fueling.

(E) Any and all oil and chemical spills shall promptly and properly be reported to the National Response Center.

(F) Details of a fuel spill contingency plan must be submitted to the City prior to issuance of business license and the commencement of any fuel handling on the beach.

(14) Major repairs of watercraft on the beach are prohibited.

(15) Subject to the overall combined site capacity restrictions set out in subsection (e) below, the maximum number of Rental Craft allowed to operate from one (1) approved water access rental site location shall be five (5) Rental Craft, including jet skis, wave runners, waveriders, and other personal watercraft.

(16) The licensee shall not employ individuals under the age of sixteen (16) years to operate any gasoline-powered watersports equipment and the licensee must provide proof that each employee who operates gasoline-powered watersports equipment possesses a valid Alabama Vessel Operator's License or the equivalent certification issued by another state if not an Alabama resident.

(b) Businesses engaging in the business of provision of parasail rides.

Any license issued to any person engaged in the business of providing parasail rides is expressly conditioned on compliance with all the following requirements:

(1) The licensee's business shall be operated only at a site with direct open water access properly zoned for such business, owned by, leased in writing to, or licensed in writing to the licensee and specifically designated on the license as issued (hereafter referred to as the "Ride Site.") The minimum separation distance allowed between any water access sites licensed or proposed to be licensed under subsections (a), (b), or (c) of this Section 8.8 shall be seven hundred fifty (750) feet. Such businesses may not be operated with a vessel or barge as a Ride Site. The licensee's customers must be picked up and dropped off only at the designated Ride Site.

(2) The Ride Site must be marked with a water ingress and egress corridor a minimum of twenty five (25) feet and a maximum of fifty (50) feet in width, delineated by two (2) orange and white buoys clearly marked "Idle Speed Only," at a distance of three hundred (300) feet from the beach, two (2) orange and white buoys at a distance of two hundred (200) feet from the beach marked "Caution: No Swimming," two (2) orange and white buoys at a distance of one hundred (100) feet from the beach marked "Caution: No Swimming," and two (2) orange cones a minimum of twenty eight (28) inches tall at water's edge. Said buoys must be a minimum of twelve (12) inches in diameter and must be maintained by the licensee. The location of the water ingress and egress corridor relative to the boundaries of the rental site must be approved by the City prior to the issuance of the license. Appropriate signage visible to persons approaching the site shall be posted at the water's edge corners of the site reading "Caution: Surf Vessels in Operation." The approved Ride Site must be kept clear of sunbathers and all others not associated with the licensed operation.

(3) The licensee's parasail craft and any vessel or water craft used by the licensee to ferry passengers to and from the parasail craft must exit and return to the Ride Site only through the required corridor and must enter and exit the corridor from the water side only at the marked seaward end of the corridor. The maximum allowable speed in the corridor is idle speed or the slowest speed at which the operator can effectively control the craft and maintain steerage at all times. The operator must yield the right-of-way to any swimmers present.

(4) All parasail passengers regardless of age shall at all times wear a properly fitted and securely fastened USCG approved Personal Flotation Device (PFD), which must be donned prior to entering the water.

(5) All parasail craft and parasails shall be subject to the limitation of number of passengers and weight capacity requirements as designated by the manufacturer.

(6) The licensee shall comply with the municipal surf condition flag warning system and shall suspend all operations when double red flags are displayed. In addition, licensee shall not operate any parasail ride in conditions licensee should reasonably find to be unsafe including but not limited to heavy surf, excessive wind, strong currents, rain, heavy fog, during a lightning storm within five (5) miles of the Ride Site, an active small craft warning alert, or if it becomes evident that a storm frontal system is approaching within seven (7) miles of the Ride Site.

(7) The licensee shall provide a mandatory Passenger Safety Briefing to all individual passengers before they are allowed to leave the beach. This briefing shall include, without limitation:

- (A) A description of the activity.
- (B) The safety precautions and use restrictions while underway;
- (C) The location and proper use of safety and life saving equipment;
- (D) Warnings and procedures for unexpected events such as equipment malfunctions, water landings, or towline separations;
- (E) The proper use of signals.

An older companion must accompany children under eight (8) years of age while in flight. The licensee shall not accept as a passenger any person who does not demonstrate an understanding of the information and procedures covered in the Passenger Safety Briefing, and any person who demonstrates an unwillingness or inability to comply with such

procedures. The licensee shall not accept as a passenger any person who appears fearful or intimidated.

(8) The licensee shall maintain a daily passenger log containing the following information regarding each passenger:

(A) The name, address, telephone number, and date of birth of the passenger.

(B) The customer's signature verifying the presentation of the Passenger Safety Briefing.

The current month's daily passenger log shall be maintained at licensee's Ride Site during the hours of the licensee's operation and shall be presented for inspection upon request of any federal, state, county, or municipal enforcement officer. The daily passenger log entries shall be retained by the licensee for a period of not less than five (5) years.

(9) The licensee shall affix and maintain on each parasail craft a suitable marking of distinctive color and size as approved by the appropriate City official as designated by the Mayor so as to render the craft identifiable as licensee's craft at a distance of up to three hundred (300) feet.

(10) The licensee shall comply with all fuel container and portable tank storage regulations as adopted by the Gulf Shores Fire Department from time to time, which include but are not limited to:

(A) Fueling must take place on stable ground clear of the water's edge. No refueling of any vessel shall take place in the water, and no spillage of fuel shall occur.

(B) A maximum of fifteen (15), five (5) gallon spill proof fuel containers totaling no more than seventy-five (75) gallons of fuel may be on the beach at any one time. No container with a capacity greater than five (5) gallons shall be allowed on site. No fuel shall be stored in any parking area, and no fuel shall be stored on site overnight. A fueling and fuel storage plan shall be submitted and approved by the City prior to the issuance of any license.

(C) Use of either a fuel collar or fuel bib while fueling is required.

(D) A minimum of ten (10) 15"x15" absorbent hydrocarbon pads and one (1) portable fire extinguisher with no less than a 60BC rating must be on site while fueling.

(E) Any and all oil and chemical spills shall be promptly and properly reported to the National Response Center.

(F) Details of a fuel spill contingency plan must be submitted to the City prior to issuance of business license and the commencement of any fuel handling on the beach.

(11) Major repairs of watercraft on the beach are prohibited.

(12) Subject to the overall combined site capacity restrictions set out in subsection (e) below, the maximum number of parasail vessels allowed to operate from one (1) approved location shall be two (2) parasail vessels.

(13) Parasail operators shall use only direct launch and recovery winch systems with functional level-winder for both launch and recovery of flight passengers at all times while engaged in parasail operations. At no time shall:

(A) Any parasail vessel's winch drum be equipped with more than the manufacturer's recommended length of towline:

(B) Any parasail vessel exceed eight hundred (800') feet of towline (which must be clearly marked to allow said marking to be visible from a distance of not less than three hundred (300') feet), from vessel to canopy yoke while conducting parasail flight operations or:

(C). Any parasail vessel exceed a maximum AGL (Above Ground Level) of five hundred (500) feet.

Only polyester high tensile type lines with double braided low stretch construction with a minimum diameter of 3/8 inches and a minimum tensile strength of 4800 pounds shall be utilized. The towline in its entirety shall be inspected daily for damage and /or wear and if necessary shall be immediately replaced as prescribed herein:

A minimum of two (2) feet shall be trimmed from the towlines bitter end within a maximum period of seven (7) days, every 400 flights or as may become necessary.

Towline shall be kept clean and well maintained in accordance with the manufacturer's specifications, requirements and/or recommendations.

A written log of such inspection and maintenance shall be kept and available for inspection upon request of any Federal, State, County, or municipal law enforcement officer, or Mayoral designee.

(14) At no time shall a passenger be allowed to participate in parasailing activities unless the captain has made a reasonable prior judgment that passenger payload, equipment, and wind and sea conditions are conducive to, and are in accordance with, manufacturer's recommendations.

(15) The parasail operator shall at all times maintain the parasail at a minimum operating distance from any surf-zone, shoreline or fixed object of not less than three hundred (300) feet.

(16) The licensee shall not employ individuals under the age of sixteen (16) years to operate any gasoline powered water sports equipment utilized in connection with the parasail business and the licensee must provide proof that each employee who operates gasoline-powered watersports equipment in connection with the parasail vessel business possesses a valid Alabama Vessel Operator's License or the equivalent certification issued by another state if not an Alabama resident. Any employee operating a parasail vessel or any craft or vessel utilized to transport passengers must possess a current USCG Captain's License, including TWIC (Transportation Worker Identification Credential) card and such license must be maintained onboard the parasail vessel at all times.

(c) Businesses engaging in the business of provision of towed recreational water rides utilizing water craft or gasoline-powered watersports equipment.

Any license issued to any person engaged in the business of providing towed recreational water rides utilizing non-powered floatables (hereafter referred to as "Towables") towed behind water craft or gasoline-powered watersports equipment (hereafter referred to as "Tow Craft"), including, without limitation, the provision of banana boat or surf sled rides, (hereafter referred to as "Towed Rides") is expressly conditioned on compliance with all the following requirements:

(1) The licensee's business shall be operated only at a site with direct open water access properly zoned for such business, owned by, leased in writing to, or licensed in writing to the licensee and specifically designated on the license as issued (hereafter referred to as the "Ride Site." The minimum separation distance allowed between water access sites licensed or to be licensed under subsections (a), (b), or (c) of this Section 8.8 shall be seven hundred fifty (750) feet. Such businesses may not be operated with a vessel or barge as a Ride Site. The licensee's customers must be picked up and dropped off only at the designated Ride Site.

(2) The Ride Site must be marked with a water ingress and egress corridor a minimum of twenty five (25) feet and a maximum of fifty (50) feet in width, delineated by two (2) orange and white buoys clearly marked "Idle Speed Only," at a distance of three hundred (300) feet from the beach, two (2) orange and white buoys at a distance of two hundred (200) feet from the beach marked "Caution: No Swimming," two (2) orange and white buoys at a distance of one hundred (100) feet from the beach marked "Caution: No Swimming," and two (2) orange cones a minimum of twenty eight (28) inches tall at water's edge. Said buoys must be a minimum of twelve (12) inches in

diameter and must be maintained by the licensee. The location of the water ingress and egress corridor relative to the boundaries of the rental site must be approved by the City prior to the issuance of the license. Appropriate signage visible to persons approaching the site shall be posted at the water's edge corners of the site reading "Caution: Surf Vessels in Operation." The approved Ride Site must be kept clear of sunbathers and all others not associated with the licensed operation.

(3) The licensee's Tow Craft must exit and return to the Ride Site only through the required corridor and must enter and exit the corridor from the water side only at the marked seaward end of the corridor. The maximum allowable speed in the corridor is idle speed or the slowest speed at which the operator can effectively control the craft and maintain steerage at all times. The operator must yield the right-of-way to any swimmers present.

(4) All Towed Ride passengers regardless of age shall at all times wear a properly fitted and securely fastened USCG approved Personal Flotation Device (PFD), which must be donned prior to entering the water.

(5) All Towables shall be subject to the limitation of number of passengers and weight capacity requirements as designated by the manufacturer.

(6) The licensee shall comply with the municipal surf condition flag warning system and shall suspend all operations when double red flags are displayed. In addition, licensee shall not operate any Towed Ride in conditions licensee should reasonably find to be unsafe including but not limited to heavy surf, excessive wind, strong currents, rain, heavy fog, during a lightning storm within five (5) miles of the Ride Site, an active small craft warning alert, or if it becomes evident that a storm frontal system is approaching within seven (7) miles of the Ride Site.

(7) The licensee shall provide a mandatory Passenger Safety Briefing to all individual passengers before they are allowed to leave the beach. This briefing shall include, without limitation:

- (A) A description of the activity.
- (B) The safety precautions and use restrictions while underway;
- (C) The location and proper use of safety and life saving equipment;
- (D) Warnings and procedures for unexpected events such as equipment malfunctions;
- (E) The proper use of signals.

The licensee shall require a responsible person sixteen (16) years of age or older be aboard the towable when carrying passengers under the age of eight (8) and not accept as a passenger any person who does not demonstrate an understanding of the information and procedures covered in the Passenger Safety Briefing and any person who demonstrates an unwillingness or inability to comply with such procedures. The licensee shall not accept as a passenger any person who appears fearful or intimidated.

(8) The licensee shall maintain a daily passenger log containing the following information regarding each passenger:

- (A) The name, address, telephone number, and date of birth of the passenger.
- (B) The customer's signature verifying the presentation of the Passenger Safety Briefing.

The current month's daily passenger log shall be maintained at licensee's Ride Site during the hours of the licensee's operation and shall be presented for inspection upon request of any federal, state, county, or municipal enforcement officer. The daily passenger log entries shall be retained by the licensee for a period of not less than five (5) years.

(9) The licensee shall affix and maintain on each Towable or associated Tow Craft a suitable marking of distinctive color and size as approved by the appropriate City official as

designated by the Mayor so as to render the craft identifiable as licensee's equipment at a distance of up to three hundred (300) feet.

(10) The licensee shall comply with all fuel container and portable tank storage regulations as adopted by the Gulf Shores Fire Department from time to time, which include but are not limited to:

(A) Fueling must take place on stable ground clear of the water's edge. No refueling of any vessel shall take place in the water, and no spillage of fuel shall occur.

(B) A maximum of fifteen (15), five (5) gallon spill proof fuel containers totaling no more than seventy-five (75) gallons of fuel may be on the beach at any one time. No container with a capacity greater than five (5) gallons shall be allowed on site. No fuel shall be stored in any parking area, and no fuel shall be stored on site overnight. A fueling and fuel storage plan shall be submitted and approved by the City prior to the issuance of any license.

(C) Use of either a fuel collar or fuel bib while fueling is required.

(D) A minimum of ten (10) 15"x15" absorbent hydrocarbon pads and one (1) portable fire extinguisher with no less than a 60BC rating must be on site while fueling.

(E) Any and all oil and chemical spills shall be promptly and properly reported to the National Response Center.

(F) Details of a fuel spill contingency plan must be submitted to the City prior to issuance of business license and the commencement of any fuel handling on the beach.

(11) Major repairs of watercraft on the beach are prohibited.

(12) Subject to the overall combined site capacity restrictions set out in subsection (e) below, the maximum number of Towables allowed to operate from one (1) approved location shall be two (2).

(13) The licensee shall not employ individuals under the age of sixteen (16) years to operate any gasoline powered water sports equipment utilized in connection with the Towed Ride business and the licensee must provide proof that each employee who operates gasoline-powered watersports equipment in connection with the Towed Ride business possesses a valid Alabama Vessel Operator's License or the equivalent certification issued by another state if not an Alabama resident. Any employee operating a Tow Craft must possess a current USCG Captain's License, including TWIC (Transportation Worker Identification Credential) card and such license must be maintained onboard the Tow Craft at all times.

(d) Businesses engaging in the business of the on-site rental of beach chairs and umbrellas.

Any license issued to any person engaged in the business of the on-site rental of beach chairs and umbrellas (hereafter referred to as "Beach Rental Accessories") is expressly conditioned on compliance with all the following requirements:

(1) The licensee's business shall be operated only at a site properly zoned for such business, owned by, leased in writing to, or licensed in writing to the licensee and specifically designated on the license as issued. An inspection by the Finance Department or its designee of any proposed site is required before any license may be issued.

(2) Each approved site must maintain a minimum landward setback of thirty-five feet (35') from the water's edge and a sufficient minimum north setback to avoid contact with any existing berm or dune. Wooden lounge setups must be spaced so as to leave one (1) aisle not less than ten (10) feet wide for north/south travel at the end of each dune walkover or pathway leading to the water. All lounge setups must remain north of beach attendant stands when present.

(e) Provisions Applicable to All Beachfront and Waterfront Recreational Businesses.

The following provisions are applicable to all businesses licensed under this Section 8.8:

(1) Maximum site capacity restrictions. In addition to the maximum site capacities specified in subsections (a), (b), and (c) above, two (2) support craft consisting of one (1) additional transport craft and any required chase/rescue craft shall be allowed at any one site. The licensee shall maintain licensee's site in a clean, safe condition at all times.

(2) Temporary Onsite Storage facilities. Temporary onsite storage facilities for the purpose of the daily operation of one or more beach and waterfront recreational businesses under this Section 8.8 are prohibited south of the Lucido and Oliver line as defined on the maps maintained by the City's Public Works Department. The licensee must include consent from the owner of the licensed site to the placement of temporary storage facilities, specifying the number of such facilities to be allowed as part of the license application. Each storage facility must be portable, may be no larger than six and a half feet high, five feet wide and twelve feet long (6 1/2' x 5' x 12'), must be white in color, and must be identified with a suitable marking of distinctive color and size, as approved by the appropriate City official as designated by the Mayor, so as to render the item identifiable as licensee's storage facility, may be utilized between the months of March and October only, and must be removed no later than November 1st of each year. In the event of a storm or other necessity for clearing the beach, all equipment and storage facilities shall be removed to a secure site off the beach within twenty-four (24) hours after notification by the City or within twelve (12) hours after the posting of any tropical storm or hurricane warning by NOAA that includes the location of the licensed site, whichever may be the shorter interval of time. A licensee, in his/her/its license application and at all reasonable times thereafter, must demonstrate, to the reasonable satisfaction of the City that the licensee has adequate storage facilities and is capable of removing and storing all equipment and facilities to a secure site off the beach within the time frames established by this subsection. A failure at any time to comply with the requirements of this subsection shall be grounds for the immediate closing of licensee's business under subsection (e) (4) below and for subsequent revocation of licensee's business license.

(3) Insurance Required of All Licensees. Each licensee under this Section 8.8 shall at all times maintain comprehensive general liability and property damage insurance coverage in an amount of not less than two hundred thousand dollars (\$200,000) for damage or loss of property arising out of any single occurrence, five hundred thousand dollars (\$500,000) for bodily injury or death for one person in any single occurrence, one million dollars (\$1,000,000) in aggregate for all claims arising out of a single occurrence, and name the City as an additional insured. The licensee shall maintain a copy of its current policy or a current certificate of insurance on file with the Finance Department at all times, and the terms of coverage shall prohibit termination or cancellation without at least thirty (30) days prior written notice to the finance division.

(4) Immediate Order to Close. In addition to authority conferred by otherwise applicable law, the mayor and, in his or her absence, the mayor pro tempore, is hereby authorized to order the closing of any licensee not in compliance with any of the requirements of this section until the next meeting of the city council if he/she finds that the condition of violation materially compromises the public good or safety and that the licensee or the agent or employee of the licensee in charge of the licensee's rental site is aware of the condition of violation and cannot or will not remedy the violation in the manner and time period necessary to avoid materially compromising the public good or safety.

(5) Minimum Site Separation. The minimum separation between any sites licensed or to be licensed for the operation of any beach and waterfront recreation business under subsections (a), (b), or (c), or any or all of such subsections, shall be seven hundred fifty (750) feet measured at the water's edge corners of the sites.

(6) License Not In Active Use Subject To Revocation. Any license issued for a site shall be subject to revocation upon a determination by the City Council that the licensee is not actively engaging in business activity at the site under the license.

(7) Required Water Access. As utilized in this Section 8.8, the term “direct open water access” shall mean direct access to a major water body other than Little Lagoon or the Intracoastal Waterway. Water access to a major water body through a canal, bayou, slough, creek, tributary, or other ancillary water body shall not constitute direct open water access.

(8) Use of Motorized Vehicles on Beach. The use of motorized vehicles by a licensee on a licensed site is ONLY allowed as otherwise permitted under Section 7-122 of the Code of Ordinances.

(f) Other Beachfront or Waterfront Recreational Rental, Amusement or Ride Service Business Activities.

Any activity or accessory rentals not specified in (a) through (d) above will require the following submitted with the business license application:

- (A) Site specific business model
- (B) Property owner agreement to vendor’s business model for property
- (C) Authorization from the Director of Recreation and Cultural Affairs

(g) Penalties for Violation of Section.

In addition to penalties otherwise specified in this Section 8-8, any violation of this Section 8-8 shall be subject to the criminal penalties provided in Section 8-27, the civil penalties provided in Section 8-28, and the procedures for suspension or revocation of license provided in Section 8-31.

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.

The motion for unanimous consent was seconded by Councilman Jones; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, “aye,” Councilman Harris, "aye," Councilman Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Mayor Craft then declared the rules suspended.

Councilman Dyken then moved for the adoption of Ordinance No. 1586 and to waive the reading of said Ordinance at length. The motion for the adoption of Ordinance No. 1586 was seconded by Councilman Jones; was regularly put; was discussed and considered in full by the Council; and upon the question, the vote thereon was as follows: Councilman Garris, "aye," Councilman Doughty, “aye,” Councilman Harris, "aye," Councilman Dyken, "aye," Councilman Jones, "aye," and Mayor Craft, "aye." Whereupon, the Mayor declared Ordinance No. 1586 duly and legally adopted.

There being no further business to come before the meeting, it was moved and seconded that the meeting be adjourned. Motion carried.

Robert Craft, Mayor

ATTEST:

Renee F. Moore, MMC, City Clerk

