6B

ORDINANCE NO. 1590

AN ORDINANCE TO AMEND THE *CODE OF ORDINANCES*, ADOPTED JULY 24, 1989, AT ARTICLE I, CHAPTER 6, BEACHES, BOATS, AND WATERWAY TO ADD SECTION 6-13 PROHIBITING THE ERECTION OF TENTS AND SHELTERS OR THE ABANDONMENT OF BEACH EQUIPMENT ON PUBLIC BEACHES AND ON CERTAIN OTHER PORTIONS OF GULFFRONT BEACHES AND PROVIDING FOR METHODS OF ENFORCEMENT AND PENALTIES FOR THE VIOLATION OF SUCH PROHIBITION

WHEREAS, the City Council of the City of Gulf Shores has determined that the erection of tents and shelters on public beach areas and on all Gulf front beaches within the corporate limits south of the Lucido & Oliver Line lying west of the Gulf State Park and east of West Eleventh Street and the abandonment of beach equipment on such areas has been shown to be materially detrimental to public safety, to the enjoyment of Gulf front beaches by residents and visitors to the City, and to the protection, stabilization, and maintenance of beach project sand, sand stabilization structures and vegetation located south of the Lucido & Oliver line ; and

WHEREAS, the City Council has determined that the erection of tents and shelters and the abandonment of beach equipment on public beach areas and on all Gulf front beaches within the corporate limits south of the Lucido & Oliver Line lying west of the Gulf State Park and east of West Eleventh Street should be prohibited in the interests of public safety and of the public welfare;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN SPECIAL SESSION ON FEBRUARY 15, 2010, 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 addition of Section 6-13 reading in its entirety as follows:

Sec. 6-6. Erection of Tents and Shelters and Abandonment of Beach Equipment on Public Beaches and Certain Other Portions of Gulf Front Beaches Prohibited; Methods of Enforcement and Penalties for Violations Prescribed .

(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.

(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.

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) below. The enforcement of subsection (c) below shall commence on March 1, 2010 without regard to whether the installation of such markers has yet taken place.

Tent or shelter shall mean any tent, shelter, canopy, cabana, windscreen, or other supported ground cover or enclosure; 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 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 maintained on its licensed site by a duly licensed beach chair rental business.

(b) **Tents and Shelters Prohibited.** No tent or shelter shall 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 lying west of the Gulf State Park and east of West Eleventh Street

(c) **Failure or Refusal to Remove Tent or Shelter After Instruction to Remove Prohibited.** No person shall fail or refuse to remove a tent or shelter erected by such person in violation of subsection (b) above after being directed to effect such removal 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 issue citations for violations of this section.

(f) **Penalty for Violation of Subsection (b).** Any person violating subsection (b) of this section shall be guilty of an offense and, upon conviction, shall be punished for each offense by a fine of $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 (c)**. Any person violating subsection (c) 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 $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 February 24, 2010, after its adoption and publication as required by law.

ADOPTED this 15th day of February, 2010.

Robert Craft, Mayor

ATTEST:

Wanda K. Parris, CMC, Deputy City Clerk

CERTIFICATE

I, Wanda K. Parris, CMC, Deputy City Clerk of the City of Gulf Shores, Alabama, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1590