

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA, PROVIDING FOR AN EMERGENCY ORDINANCE DECLARING THAT SWIMMING IN THE UNINCORPORATED GULF WATERS OF BAY COUNTY WHEN DOUBLE RED FLAGS ARE DISPLAYED IS UNLAWFUL; PROVIDING FOR EXEMPTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, there currently exists an extremely dangerous and life threatening condition in the gulf waters lying within and adjacent to the unincorporated areas of Bay County Florida because of the existence of numerous unpredictable rip currents and other unsafe water conditions; and

WHEREAS, the Sheriff of Bay County Florida is charged with the duty of protecting the well being of all persons entering the Gulf Waters described above by posting a flag warning system; and

WHEREAS, it is necessary for the Sheriff to enforce no swimming declarations to save the lives of both swimmers and rescuers; and

WHEREAS, numerous persons have lost their lives in Bay County because the flag warning system has been ignored and rescuers lives have been jeopardized, now therefore:

BE IT ORDAINED by the Board of County Commissioners of Bay County, Florida that it does hereby declare that an emergency exists for the protection of the Public Health, Safety, and Welfare of the citizens of and visitors to Bay County Florida.

SECTION 1. The Bay County Code, Section 5-84, Boat and Water Safety, is hereby amended by adding a new subsection (h) to read as follows:

(h) It is unlawful to enter or remain in the waters of the Gulf of Mexico along the shores of the unincorporated areas of Bay County when water conditions are unsafe as evidenced by the display of double red flags by the Bay County Sheriff's Office, and after verbal warning of such condition by any law enforcement officer within his or her jurisdiction. Those persons surfing with a surfboard attached to the surfer by a leash are exempt from this section. A surfboard means a fiberglass, epoxy, closed-cell neoprene or closed cell Styrofoam instrument with one or more fins or skegs attached to or inserted through the bottom, including windsurf boards and sailboards, but does not include rubber rafts, floats, belly boards, skim boards, or boogie boards. Notwithstanding the penalty in Section 5-90(a) of this article, a violation of this subsection is a misdemeanor and punishable pursuant to Section 5-90(b) of this article.

SECTION 6. SEVERABILITY.

It is hereby declared to be the intent of the board of county commissioners of Bay County that if any section, subsection, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 7. REPEAL.

All ordinances or parts of ordinances in conflict with this ordinance are to the extent of such conflict hereby repealed.

SECTION 8. INCLUSION IN CODE.

It is the intention of the board of county commissioners of Bay County Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Bay County, Florida; that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article" or other appropriate designation.

SECTION 9. EFFECTIVE DATE.

A certified copy of this emergency ordinance as enacted shall be filed by the Clerk of the Board with the office of the Secretary of State of the State of Florida within ten (10) days after enactment, and this ordinance shall take effect immediately in accordance with Section 125.66(2), Florida Statutes and shall remain in effect until repealed or a permanent ordinance is enacted by the Board.

DULY ADOPTED in regular session this _____ day of _____ 2008.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BAY COUNTY FLORIDA

Harold Bazzel, Clerk

Jerry L. Girvin, Chairman