

ORDINANCE NO. 2017-295

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES BY AMENDING CHAPTER 3, ARTICLE I BY SPECIFICALLY CREATING A NEW SECTION 3-9 TO BE ENTITLED "REQUIREMENTS FOR MARINE TURTLE PROTECTION"; PROVIDING FOR DEFINITIONS; PROVIDING FOR LIGHTING STANDARDS FOR NEW DEVELOPMENT; PROVIDING FOR LIGHTING STANDARDS FOR EXISTING DEVELOPMENT; PROVIDING FOR SINGLE FAMILY RESIDENTIAL LIGHTING GUIDELINES; PROVIDING FOR MULTI-FAMILY DWELLING GUIDELINES; PROVIDING FOR COMMERCIAL LIGHTING GUIDELINES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida is one of several states that are considered as sea turtle habitat areas that provide sandy upland habitat for nesting; and

WHEREAS, the Town of Hillsboro Beach is located on a barrier island that is bordered on the eastern side by the Atlantic Ocean; and

WHEREAS, the beach area located within the Town is a natural asset of the Town; and

WHEREAS, the Town Commission has determined that it is in the Town's best interest to protect all species of marine turtles that nest on beaches located within the Town of Hillsboro Beach; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF HILLSBORO BEACH, FLORIDA THAT:

Section 1. The foregoing "Whereas" clause is hereby ratified and confirmed as being true and correct and is hereby made a part of this Ordinance.

Section 2. Chapter 3 of the Code of Ordinances is hereby amended by specifically amending Article I entitled "In General" to create Section 3-9 to be entitled "Requirements for Marine Turtle Protection" which shall read as follows:

Section 3-9 Requirements for Marine Turtle Protection.

A. Purpose.

The purpose and legislative intent of the Town Commission by enacting this section is to protect threatened and endangered marine turtles that nest along the beaches of the Town, by safeguarding the nesting female and hatchling marine turtles from the adverse effects of artificial light and from injury or harassment by prohibiting activities/situations disruptive to marine turtles.

B. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Artificial light or "artificial lighting" means any source of light emanating from a manmade device, including but not limited to light emitting diodes (LED), incandescent, mercury vapor, metal halide, or sodium lamps, flashlights, spotlights, streetlights, vehicular lights, construction or security lights.

Beach means the area of unconsolidated material that is contiguous with the waters of the Atlantic Ocean and extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation (usually the effective limit of the storm waves).

Beach access point means any path through or over the dune used by the general public or private property owners for the purpose of gaining access to the beach.

Directly illuminated means illuminated as a result of a glowing element(s), lamp(s), globe(s), or reflector(s) of an artificial light source which is visible from the beach.

Dune means a mound or ridge of loose sediments, usually sand-sized, lying landward of the beach and deposited by a natural or artificial mechanism.

Existing development means a building or structure for which a building permit has been issued prior to the adoption of this article.

FDEP means the Florida Department of Environmental Protection or successor agency.

Floodlight means a lamp that supplies a strong light over a wide angle.

Full cutoff means the luminous intensity (in candelas) at or above an angle of 90° above nadir is zero, and the luminous intensity (in candelas) at or above a vertical angle of 80° above nadir does not numerically exceed 10% of the luminous flux (in lumens) of the lamp or lamps in the luminaire.

FWC means the Florida Fish and Wildlife Conservation Commission or successor agency.

Hatchling means any species of marine turtle, within or outside of a nest that has recently hatched from an egg.

IES- Illuminating Engineering Society

Inspector means a designated town employee or an inspector that has been designated through an agreement with another entity to perform inspections required pursuant to this article.

Kelvin is measurement used to describe the color temperature of a light source.

Light emitting diode (LED) means miniature lamps that emit pure red or amber light that do not vary in color over the life of the lamp. These lamps may be used in multiples to form strips of small lamps within a light fixture.

Low-profile luminaire means a light fixture set on a base which raises the source of the light no higher than 48 inches off the ground and designed in such a way that light is directed downward from a hooded light source.

Lumen is the measurement of total light output.

Luminaire means a complete lighting system, including a lamp or lamps and a fixture.

Marine turtle means any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in Florida waters or using the beach as nesting habitat, including the species: Caretta caretta (loggerhead), Chelonia mydas (green), Dermochelys coriacea (leatherback), Eretmochelys imbricata (hawksbill), and

Lepidochelys kempii (Kemp's ridley). For purposes of this article, marine turtle is synonymous with sea turtle.

Motorized vehicle means, but is not limited to, any self-propelled, wheeled, tracked or belted conveyance.

Nesting season means the period from March 1 through October 31 of each year.

New development includes new construction and remodeling of existing structures when such remodeling includes the alteration of exterior lighting or the repair or replacement of any glass or glazing.

Nighttime means the locally effective time period between sunset and sunrise.

Outdoor lighting means the nighttime illumination of an outside area or object by any fixed luminaire. Vehicle lights and flashlights are not included in this definition.

Person means any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation and all other groups or combinations.

Point source of light means the actual light source such as the bulb, fluorescent tube, lamp, etc., from which light emanates.

Shielded means fitted with a nonreflective opaque hood, or other covering or device, which prevents the light fixture and luminaire from producing direct or indirect illumination visible from the beach.

Temporary structure means any manmade structure or object with a location or arrangement that is temporary or transient in nature.

Tinted or filmed glass means any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent or less.

Visible from the beach means visible to a person standing on the beach.

C. Lighting standards for new development.

In order to provide the highest level of protection for nesting marine turtles and their hatchlings, the following standards are adopted for artificial light sources on all new coastal construction:

- (1) Exterior artificial light fixtures shall be designed and positioned so that the point source of light is not directly visible from the beach. Fixtures in line-of-sight of the beach shall be full cut-off fixtures as defined by the IES.
- (2) Low profile luminaires shall be used in parking lots and such lighting shall be positioned so that no light directly or indirectly illuminates the beach.
- (3) Floodlights, up-lights or spotlights for decorative, recreational and accent purposes that are directly visible from the beach are prohibited during nesting season.
- (4) Exterior lights used expressly for safety or security purposes shall be limited to the minimum number and configuration required to achieve their functional role(s). The use of motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration possible are required for any exterior lights used expressly for safety or security. Lights incorporating motion detector switches shall be downward directed and shielded from the beach.
- (5) All light sources visible from the beach shall be 3000 kelvin or less, preferably amber/red LED.
- (6) Tinted or filmed glass shall be installed on all windows and glass doors of single or multistory structures within line-of-sight of the beach with a light transmittance value of 45 percent or less.
- (7) Pool lights shall be installed with lighting specifically designed for the safety of marine animals.

- (8) Balcony lights shall be fitted with hoods so that lights will not directly or indirectly illuminate the beach.
- (9) Upon completion of the construction activities and prior to issuing a certificate of occupancy for any new development within direct line-of-sight of the beach, compliance with the beachfront lighting standards for nesting season set forth in this article shall be inspected as follows
 - a. A specialized lighting inspector shall conduct a site inspection which includes a night survey with all exterior lighting turned on and programmed the way it is programmed for turtle season.
 - b. The inspector shall prepare and report the inspection finding in writing, identifying:
 1. The date and time of initial inspection;
 2. The extent of compliance with the lighting standards;
 3. All areas of observed noncompliance, if applicable;
 4. Any action(s) taken to remedy observed noncompliance, if applicable.

The inspector, in cases where remedial action is necessary, shall notify the owner or developer of the results of the inspection and the owner or developer shall have ten (10) calendar days to comply and schedule a date and time for a subsequent inspection.

D. Lighting standards for existing development.

Within one (1) year from the date of the adoption of the ordinance from which this article derives, all light sources or reflective surfaces illuminated by such sources that are visible from the beach shall be brought into compliance with the following:

- (1) Exterior artificial light fixtures shall be designed and positioned so that the point source of light is not directly visible from the beach. Fixtures in line-of-sight of the beach shall be full cut-off fixtures as defined by the IES.
- (2) Low profile luminaires shall be used in parking lots and such lighting shall be positioned so that no light directly or indirectly illuminates the beach.
- (3) Floodlights, up-lights or spotlights for decorative, recreational and accent purposes that are directly visible from the beach are prohibited during nesting season.
- (4) Exterior lights used expressly for safety or security purposes shall be limited to the minimum number and configuration required to achieve their functional role(s). The use of motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration not exceeding five (5) minutes are required for any exterior lights used expressly for safety or security. Lights incorporating motion detector switches shall be downward directed.
- (5) All light sources visible from the beach shall be 3000 kelvin or less, preferably amber/red LED.
- (6) Tinted or filmed glass shall be installed on all windows and glass doors of single or multistory structures within line-of-sight of the beach with a light transmittance value of 45 percent or less.
- (7) Pool lights shall be installed with lighting specifically designed for the safety of marine animals.
- (8) Balcony lights shall be fitted with hoods so that lights shall not be visible from the beach.
- (9) The Town Commission is authorized to grant variances to the date of compliance where lighting installed before the adoption of the ordinance from which this article derives would be in violation of this article. Requests for variances must be submitted in writing to the Town Clerk. The variance

will be considered by Town Commission as the Board of Zoning Appeals at a regularly scheduled meeting.

E. Compliance inspections.

Periodic nighttime lighting inspections will be performed during nesting season from the beach to determine the extent of compliance with all sections of this article. These inspections will be conducted as needed until existing beachfront lighting has been brought into compliance.

F. Prohibition of activities disruptive to marine turtles.

The following activities and situations are prohibited on the beach from sunset to sunrise during nesting season:

- (1) The operation of all motorized vehicles, except emergency and law enforcement vehicles or persons who have authorization or a permit to engage in marine turtle conservation or research issued by FWS, FDEP, FWC or the town, and who are acting in conformance with such authorization or permit.
- (2) The building of fires.
- (3) Any transient lighting which purposely illuminates nesting sea turtles or hatchlings. This prohibition does not apply to persons who have authorization or a permit to engage in marine turtle conservation or research issued by FWS, FWC, FDEP or the town, and who are acting in conformance with such authorization or permit.
- (4) Any temporary structures, including, but not limited to, beach chairs, umbrellas and cabanas which have the potential for entrapment of marine turtles and which may interfere with the use of the natural beach environment for nesting habitat. All temporary structures shall be removed from the beach nightly or stacked upside down in a way to reduce the possibilities of entrapment.

G. Local approval not exclusive.

Approval required pursuant to this article shall be in addition to and not in lieu of any federal, state, regional or other local approvals which may be required for the same or similar activities. Similarly, compliance with provisions of this article does not excuse any person from having to comply with other applicable federal, state, regional or local laws.

H. Civil powers; criminal penalties.

(1) The Town shall have the power to enforce the provisions of this article by code enforcement proceedings in accordance with the Code of Ordinances, Town of Hillsboro Beach, Florida, and by equitable or legal judicial proceedings. Each day of any such violation shall constitute a separate and distinct offense.

(2) No permit shall be issued by the Town for any property which is in violation of this article or for which a fine imposed in accordance with this article remains unpaid.

Section 3. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

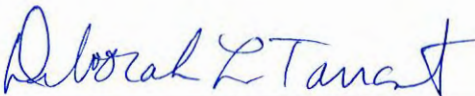
Section 4. That all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. It is the intention of the Town Commission of the Town of Hillsboro Beach, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Town of Hillsboro Beach, Florida, and the Sections of this ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article," or such other word or phrase in order to accomplish such intention.

Section 6. This Ordinance shall be effective fifteen (15) days after its passage and adoption by the Town Commission of the Town of Hillsboro Beach.


PASSED AND ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA, ON FIRST READING, THIS 6TH DAY OF JUNE, 2017.

PASSED ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA, ON SECOND AND FINAL READING, THIS 11TH DAY OF JULY, 2017.

By: 
Deborah L. Tarrant, Mayor

ATTEST:

By:


Wadie Atallah
Town Administrator

