

**ORDINANCE 95-17-114**

**AN ORDINANCE OF THE CITY OF ATLANTIC BEACH, COUNTY OF DUVAL, STATE OF FLORIDA, AMENDING CHAPTER 5 BEACHES AND PARKS, TO ADD ARTICLE IV, SEA TURTLE PROTECTION, INCLUDING PURPOSE AND INTENT, DEFINITIONS, PROHIBITION OF ACTIVITIES DISRUPTIVE TO MARINE TURTLES, LIGHTING STANDARDS FOR NEW CONSTRUCTION, STANDARDS FOR EXISTING LIGHTING, AND ENFORCEMENT AND PENALTIES, PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Atlantic Beach is a coastal city with approximately 2.5 miles shoreline on the Atlantic Ocean; and

**WHEREAS**, the City of Atlantic Beach's shoreline provides important nesting habitat for endangered and threatened sea turtles; and

**WHEREAS**, the City of Atlantic Beach's shoreline is heavily developed with structures utilizing artificial lighting; and

**WHEREAS**, scientific studies conclude that certain types of artificial lighting have a detrimental effect on nesting sea turtles and their hatchlings by inhibiting nesting and interfering with the natural lighting cues used by hatchlings to properly orient to the open waters of the Atlantic Ocean; and

**WHEREAS**, it is the desire of the City Commission to regulate exterior and interior point sources of artificial lighting in a manner that minimizes disturbances and the disorientation of nesting sea turtles and their hatchlings;

**BE IT ENACTED BY THE CITY COMMISSION ON BEHALF OF THE PEOPLE OF THE CITY OF ATLANTIC BEACH, FLORIDA:**

**SECTION 1. Regulation Added.** The Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended by adding a new article to Chapter 5, which shall read as follows:

**“ARTICLE IV. - SEA TURTLE PROTECTION**

**Section 5-34. - Purpose and intent.**

The purpose of this Article is to protect the threatened and endangered sea turtles that may nest along the beaches of Atlantic Beach, Florida, by safeguarding sea turtle hatchlings and nesting female sea turtles from artificial light.

**Section 5-35. - Definitions.**

For purposes of this Article, the following terms shall have the meanings as set forth within this section.

- (a) *Artificial light or artificial lighting* shall mean the light emanating from any human-made device.
- (b) *Beach* shall mean the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves.
- (c) *City* shall mean the City of Atlantic Beach, a municipal corporation of the State of Florida.
- (d) *Directly visible* shall mean the line of sight visibility of glowing element(s), lamp(s), globe(s), or reflector(s) of an artificial light source by an observer standing on the beach.
- (e) *Dune* shall mean a mound or ridge of loose sediments, usually sand-sized, lying landward of the beach and deposited by any natural or artificial mechanism.
- (f) *Ground-level barrier* shall mean any vegetation, natural feature or artificial structure rising from the ground which prevents artificial lighting from being directly or indirectly visible.
- (g) *Hatchling(s)* shall mean any species of marine turtle, within or outside of a nest that has recently hatched from an egg.
- (h) *Line-of-sight* shall mean a visual path emanating from an average eye level. Average eye level is defined to be five feet above the ground level.

- (i) *Long wavelength lighting* shall mean light bulbs or diodes that produce light that measures greater than 560 nanometers and absent wavelengths below 560 nanometers on a spectroscope, which include low-pressure sodium (LPS), true red neon, red, orange, or amber light-emitting diode (LED), or other lighting sources that produce light that measures greater than 560 nanometers and absent wavelengths below 560 nanometers.
- (j) *Marine turtle* shall mean 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 imbricate* (hawksbill), and *Lepidochelys kempi* (Kemp's ridley) For purposes of this Article, marine turtle is synonymous with sea turtle.
- (k) *Nest* shall mean an area where marine turtle eggs have been naturally deposited or subsequently relocated.
- (l) *Nesting season* shall mean the period from May 1 through October 31 of each year.
- (m) *Nighttime* shall mean the locally effective time period between sunset and sunrise.
- (n) *Person* shall mean individuals, firms, associations, joint ventures, partnerships, estates, trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
- (o) *Point Source* shall mean the bulb, lamp or glowing elements of a fixture from which light is emitted.
- (p) *Sea Turtle Protection Area* shall mean an area where land either (i) has frontage on Beach Avenue; (ii) is located within the Cloister condominium development; or (iii) is located eastward of Seminole Road from 20<sup>th</sup> Street northward to the City limits.
- (q) *Shielded* shall mean a light fixture which is constructed in a manner that the point source is not directly visible from the beach.
- (r) *Tinted glass* shall mean any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of 45% or less. Such transmittance is limited to the visible spectrum (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the glass.

**Section 5-36. - Prohibition of activities disruptive to marine turtles.**

The following activities are prohibited on the beach at nighttime during the nesting season:

- (a) The operation of all motorized vehicles, except emergency and law enforcement vehicles, those permitted to be on the beach for marine turtle conservation or research, or those permitted to be on the beach by the City Manager.
- (b) The building of campfires or bonfires.

### **Section 5-37. - Lighting standards for new construction.**

In addition to the requirements of the Florida Building Code and other regulating entities as of the effective date of this Article (April 24, 2017), the following lighting standards shall be required for all construction activities occurring within the sea turtle protection area.

- (a) Exterior artificial light fixtures shall be designed and positioned so that the point source of light or any reflective surface from a light fixture is not directly visible.
- (b) Exterior artificial light fixtures within line-of-sight of the beach shall be designed as follows:
  - (1) Completely shielded downlight only fixtures or recessed fixtures having low wattage, long wavelength light sources with non-reflective interior surfaces. Other fixtures that have appropriate shields, louvers, or cut-off features may also be used if they are in compliance with paragraph (a) above; and
  - (2) All fixtures shall be mounted as low in elevation as possible through use of low-mounted wall fixtures, low bollards, and/or ground-level fixtures.
- (c) Floodlights, up-lights or spotlights designed for decorative and accent purposes that are directly visible shall not be used.
- (d) Exterior artificial light fixtures 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 detectors that keep lights off except when approached and that switch lights off within 5 minutes are required.
- (e) Only long wavelength lighting shall be used in parking areas within line-of-sight of the beach. Such lighting shall be:
  - (1) Set on a base which raises the source of light no higher than 48 inches above the ground; and
  - (2) Positioned or shielded so that the light is cast downward and the source of light or any reflective surface from the light fixture is not directly or indirectly visible.
- (f) Parking areas and roadways, including any paved or unpaved areas upon which motorized vehicles will park or operate, shall be designed and located to prevent vehicular headlights from being directly visible.
- (g) Vehicular lighting, parking area lighting, and roadway lighting shall be shielded from the beach through the use of ground-level barriers. Ground-level barriers must not interfere with marine turtle nesting or hatchling emergence, or cause short- or long- term damage to the beach/dune system.

- (h) Tinted glass shall be installed on all windows and glass doors of single or multi-story structures within line-of-sight of the beach.
- (i) Use of appropriately shielded downward-directed fixtures fitted with long wavelength light sources shall be required for parking areas, roadways and similar high-intensity lighting applications.
- (j) Temporary lighting of construction sites during the marine turtle nesting season shall be restricted to the minimal amount necessary and shall incorporate all of the requirements of this section.

**Section 5-38. - Standards for existing lighting.**

No later than May 1, 2018, all owners of property located within the sea turtle protection area shall determine if any existing artificial lighting on their property is directly visible and take the following corrective actions to reduce or eliminate the negative effects of such artificial lighting:

- (a) One (1) or more of the following measures shall be taken to reduce or eliminate the negative effects of existing exterior artificial lighting so that the point source of light or any reflective surface a light fixture is not directly visible:
  - (1) Reposition fixtures so that the point source of light or any reflective surface is no longer directly visible;
  - (2) Replace fixtures having an exposed light source with fixtures containing recessed light sources or shields;
  - (3) Replace traditional light bulbs with low wattage, long wavelength light sources;
  - (4) Replace non-directional fixtures with directional fixtures that point down and away from the beach;
  - (5) Replace fixtures having transparent or translucent coverings with fixtures having opaque shields covering an arc of at least 180 degrees and extending an appropriate distance below the bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not directly visible;
  - (6) Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface is not directly visible;
  - (7) Replace incandescent, fluorescent, and high intensity lighting with the lowest wattage, long wavelength lighting possible for the specific application;
  - (8) Plant or improve vegetation buffers between the light source and the beach to screen artificial light;

- (9) Construct a ground-level barrier to shield light sources from the beach. Ground-level barriers must not interfere with marine turtle nesting or hatchling emergence, or cause short- or long- term damage to the beach/dune system;
  - (10) Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards.
- (b) One (1) or more of the following measures shall be taken to reduce or eliminate the negative effects of interior light emanating from doors and windows within line-of-sight of the beach:
- (1) Window tint or film shall be installed that meets the standards for tinted glass;
  - (2) Rearrange lamps and other moveable fixtures away from windows;
  - (3) Use window treatments (e.g., blinds, curtains) to shield interior lights from the beach;
  - (4) Turn off unnecessary lights.
- (c) 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 detectors that keep lights off except when approached and that switch lights off within 5 minutes are required.

**Section 5-39. - Enforcement and penalties.**

- (a) The City shall have the power to enforce the provisions of this Article by code enforcement proceedings as set out in Chapter 2, Article V, Division 2, City of Atlantic Beach Code of Ordinances, as amended, including without limitation, all penalties, fines and interest, and F.S. Chapter 162, as amended.
- (b) No permit for a Certificate of Occupancy shall be issued by the City for any property in violation of this Article, unless the permit includes corrective actions as outlined in this Article.

**SECTION 2. Conflict.** All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this ordinance are repealed to the extent inconsistent herewith.

**SECTION 3. Severability.** If any section, subsection, sentence, clause or phrase or provision of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not be construed to render the remaining provisions of this ordinance invalid or unconstitutional.

**SECTION 4. Effective Date.** This Ordinance shall take effect immediately upon its final passage and adoption.

PASSED by the City Commission on first reading this 10th day of April, 2017.

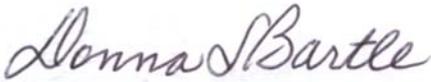
PASSED by the City Commission on second reading this 24th day of April, 2017.

CITY OF ATLANTIC BEACH



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Mitchell E. Reeves, Mayor

ATTEST:



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Donna L. Bartle, City Clerk

Approved as to form and correctness:



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Brenna M. Durdan, City Attorney