

Regular Workshop – May 16, 2016
Agenda Item 12

Agenda Item: Presentation Regarding Proposed Amendments to Chapter 100, Marine Turtle Protection (Proposed Ordinance 2016-15)

Presenters: Town Manager and Staff.

Summary: At the April 18, 2016, Regular Workshop, the Town Commission directed Staff to provide additional information regarding lighting enforcement alternatives, violations of the marine turtle protection ordinance for Sarasota County, and specific elements of the proposed ordinance.

Attachments: 4-28-16 Memo, CEO Elbon through Chief Cumming to Manager.
5-16-16 Marine Turtle Protection Ordinance Presentation.

Recommended

Action: Pending discussion, provide direction to Manager.

M E M O R A N D U M

Date: May 4, 2016

TO: Dave Bullock, Town Manager
FROM: Chris Elbon, Code Enforcement Officer
THROUGH: Pete Cumming, Police Chief
SUBJECT: Presentation Regarding Proposed Amendments to Chapter 100,
Marine Turtle Protection (Proposed Ordinance 2016-15)

The Town has a responsibility for the protection of nesting marine turtles and their hatchlings on its beaches through beach renourishment and wildlife protection practices, while ensuring the safety and security of its residents and visitors. Recent monitoring data shows that the Town experiences more hatchling disorientation than neighboring communities where ordinances have been updated.

At the April 18, 2016, Regular Workshop, the Town Commission directed Staff to provide additional information regarding lighting enforcement alternatives, complaints and violations of the marine turtle protection ordinance for Sarasota County, and specific elements of the proposed ordinance.

Based on the direction provided, Staff has prepared a presentation addressing the Endangered Species Act of 1973, Florida's Marine Turtle Protection Act, light shields, violations for Sarasota County, other means for lighting enforcement, elements of the proposed ordinance, and a comparison of local marine turtle protection and lighting ordinances.

Proposed Ordinance 2016-15 (attached) provides for the protection of marine turtles on the beaches of the Town and is presented for Commission consideration at the May 16, 2016 Regular Workshop Meeting.

The point of contact for this memorandum is Christopher Elbon at (941) 361-6411, Ext. 1917, or celbon@longboatkey.org.



Presentation Regarding Proposed Amendments to Chapter
100, Marine Turtle Protection
(Proposed Ordinance 2016-15)

May 16, 2016

Prepared by: Chris Elbon, Code Enforcement Officer



Discussion Outline

- § Background & History
- § Endangered Species Act of 1973 (ESA)
- § Florida's Marine Turtle Protection Act
- § Violations for Sarasota County
- § Light Shields
- § Other Means for Lighting Enforcement
- § Elements of Proposed Ordinance
- § Ordinance Comparison
- § Conclusion



Background & History

§ At the March 23, 2016, Regular Workshop Meeting, the following topics were discussed:

- § The current ordinance;
- § Proposed changes to current ordinance;
- § Lighting surveys & violations;
- § FWC approved fixtures & bulbs;
- § Obstructions on the beach; and
- § Nesting & disorientation data.

§ In addition to the discussions, the Town Commission requested additional information regarding:

- § Specific causes for disorientations;
- § Ordinance comparisons;
- § Additional nesting & disorientation data; and
- § Volunteer efforts.



Background & History

§ At the April 18, 2016, Regular Workshop Meeting, the following topics were discussed:

- § Reasons for amending the current ordinance;
- § Proposed changes to current ordinance;
- § Specific causes for disorientations;
- § Nesting & disorientation data;
- § Volunteer efforts; and
- § Ordinance comparisons.

§ In addition to the discussions, the Town Commission requested additional information regarding:

- § Violations for Sarasota County;
- § Lighting enforcement alternatives;
- § Specific elements of the proposed ordinance; and
- § Additional nesting & disorientation data.



Endangered Species Act of 1973 (ESA)



Endangered Species Act of 1973 (ESA)

- § Enacted by Congress to provide for the conservation of threatened and endangered species and their ecosystems.
- § U.S. Fish and Wildlife Service designated about 685 miles of coastal beach as a critical habitat as directed under the ESA. Longboat Key is part of the critical habitat.
- § Florida entered into a cooperation agreement in 2003.



Endangered Species Act of 1973 (ESA)

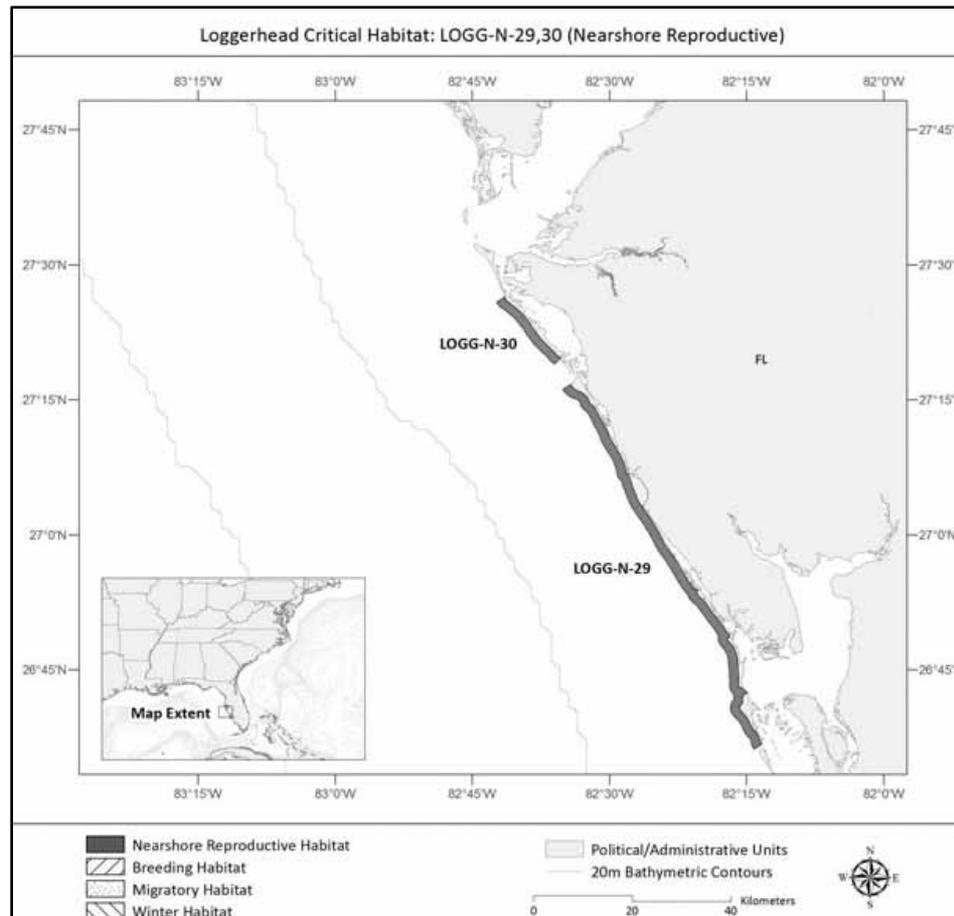


National Oceanic and Atmospheric Administration. (n.d.). *Summary map of critical habitat.*

Retrieved May 4, 2016 from http://www.nmfs.noaa.gov/pr/species/turtles/images/loggerhead_critical_habitat_map.jpg



Endangered Species Act of 1973 (ESA)



National Oceanic and Atmospheric Administration. (n.d.). *Maps of critical habitat.*

Retrieved May 4, 2016 from http://www.nmfs.noaa.gov/pr/species/turtles/images/loggerhead_critical_habitat_map.jpg



Endangered Species Act of 1973 (ESA)

§ Species of marine turtles recognized as threatened:

§ Loggerhead sea turtle (*Caretta caretta*);

§ Species of marine turtles recognized as endangered:

§ Green turtle (*Chelonia mydas*);

§ Hawksbill sea turtle (*Eretmochelys imbricata*);

§ Kemp's ridley turtle (*Lepidochelys kempii*); and

§ Leatherback sea turtle (*Dermochelys coriacea*).





Endangered Species Act of 1973 (ESA)

§ Through federal action, the ESA:

- § Authorizes the determination and listing of species as endangered or threatened;
- § Prohibits unauthorized taking, possession, sale, and transport of endangered species;
- § Provides authority to acquire land for the conservation of listed species, using land and water conservation funds;
- § Authorizes establishment of cooperative agreements;
- § Authorizes the assessment of civil and criminal penalties for violations of the ESA; and
- § Authorizes the payment of rewards to anyone furnishing information leading to arrest and conviction for any violation of the ESA.



Florida's Marine Turtle Protection Act



Florida's Marine Turtle Protection Act

- § Provides for the protection of the species of marine turtles as defined by the ESA.

- § Prohibits a “take” which is defined as any act that results in:
 - § Killing or injuring marine turtles;
 - § Significant modification or degradation of habitat that results in the killing or injury of marine turtles; and
 - § Significantly impairing essential behavioral patterns.

- § Other prohibited acts:
 - § Knowingly possessing the eggs of any marine turtles; and
 - § Take, disturb, mutilate, destroy, cause to be destroyed, transfer, sell, offer to sell, molest, or harass any marine turtle or the eggs or the nest of any marine turtle.



Florida's Marine Turtle Protection Act

§ Carries a penalty of \$100 per egg in addition to the following penalties for any violation of the Marine Turtle Protection Act:

§ Second Degree Misdemeanor:

§ Imprisonment for up to 60 days and a \$500 fine.

§ First Degree Misdemeanor:

§ Imprisonment for up to 1 year and a \$1,000 fine.

§ Third Degree Felony:

§ Imprisonment for up to 5 years and a \$5,000 fine.



Light Shields



Light Shields





Light Shields

- § FWC does not recommend (or in many cases allow) manipulation of hatchlings or the nest environment to mitigate threats that could be otherwise addressed by other means.

- § Shields cause an unauthorized “take” and may be in violation of the Marine Turtle Protection Act:
 - § Shields can become an obstruction to nesting females on the beach and potentially prevent them from nesting.
 - § Hatchlings and nesting females can become entangled or entrapped in shields.



Light Shields

§ Liability:

- § Shields become an obstruction to beachgoers and create a trip/fall hazard.
- § Places additional liability on the entity/entities responsible for maintaining the beach and the shields.

§ Effectiveness:

- § Hatchlings tend to disorient around the shield once they reach the point where the lights come into view.
- § Shields would have to extend from the nest to the waterline to prevent lights from becoming visible.
- § Hatchlings are regularly documented crawling back out of the water toward lights.



Violations for Sarasota County



Violations for Sarasota County

§ Sarasota County Environmental Protection Division estimates an average of 55 warnings per year were issued from 2010 – 2014.

§ An estimated average of 12 Notices of Violation per year were issued from 2010 – 2014.

§ A total of 4 cases were heard before a Special Magistrate from 2010 – 2014.



Other Means for Lighting Enforcement



Other Means for Lighting Enforcement

- § FWC recommends bulbs that produce long wavelength light (560 nm or longer) as turtle friendly.
- § Wavelength light of a point source is measured utilizing a spectroradiometer.
- § Cost of portable spectroradiometer for field applications begins at approximately \$15,000.



ASD, Inc. (n.d.). *FieldSpec, Handheld 2: Hand-held VNIR Spectroradiometer.*

Retrieved from <http://www.asdi.com/products/fieldspec-spectroradiometers/handheld-2-portable-spectroradiometer>



Other Means for Lighting Enforcement

- § Spectroradiometers are typically used for:
 - § Crop and soil research;
 - § Forestry and ecology research;
 - § Oceanography and inland bodies research; and
 - § Lighting surveys in controlled environments such as:
 - Greenhouses;
 - Factories; and
 - Sports facilities.

- § Have not been tested or utilized in the field for measuring point sources of light at great distances, such as the beach.

- § Must take ambient light into consideration.



Other Means for Lighting Enforcement

§ Luminance measuring light meters are typically used for measuring:

- § Street lighting;
- § Railway and airport lighting; and
- § Sports facilities.



§ Measure brightness perceived by the eye.

§ Ideal for measuring luminance of an area, but not recommended for measuring point sources of light at great distances.



§ Must take ambient light into consideration.



Other Means for Lighting Enforcement

- § Personal observation is the standard method for detecting and enforcing lighting standards.
- § FWC & USFWS does not recommend enforcing lighting standards through means other than personal observation.
- § No wavelength light standard established for what would constitute a violation.
- § Town would need to consider developing its own lighting standards based on scientific principles for lumens or wavelengths, as this type of lighting standard does not currently exist for this purpose.



Elements of Proposed Ordinance



Elements of Proposed Ordinance

§ “Cumulatively Illuminated.” Illuminated by multiple artificial light sources that as a group illuminate any portion of the beach.

§ Occurs when the combined effect from multiple lights illuminates the beach, as opposed to the effects from a single light.

§ “Indirectly illuminated.” Illumination of any portion of the beach as a result of an artificial light source in which the artificial light source is not directly visible from any portion of the beach.

§ Occurs when the beach is illuminated by a light that is not directly visible from the beach.



Elements of Proposed Ordinance

§ New Developments:

§ Utilize FWC approved lighting fixtures & bulbs;

§ Low mounted fixtures when possible; and

§ Tinted or filmed glass with an inside-to-outside light transmittance value of 45 percent or less.





Elements of Proposed Ordinance

§ Existing Development Exterior Lighting:

- § Provides property owners with alternatives for compliance based on individual situations. Alternative options include:
- Remove, disable, or turn lights off;
 - Plant or improve vegetation buffers;
 - Construct ground-level barriers;
 - Replace bulbs; or
 - Replace or retrofit fixtures;



Elements of Proposed Ordinance

§ Remove, disable, or turn lights off;

§ Plant or improve vegetation buffers; or

§ Construct ground-level barriers.



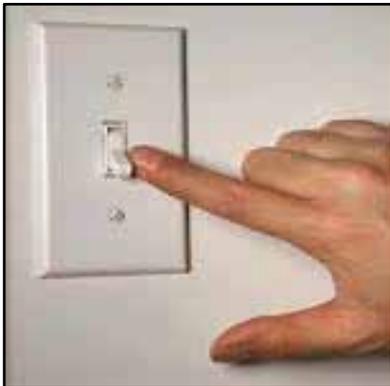


Elements of Proposed Ordinance

§ Remove, disable, or turn lights off;

§ Plant or improve vegetation buffers; or

§ Construct ground-level barriers.





Elements of Proposed Ordinance

§ Replace Bulbs:

§ Fixtures that are in compliance but bulbs are not.





Elements of Proposed Ordinance

§ Replace or Retrofit Fixtures:

- § Fixtures with exposed point source of light;
- § Fixtures with reflective interior surfaces that are visible from the beach;
- § Non-directional fixtures;
- § Fixtures with transparent or translucent coverings;
- § Pole lamps.





Elements of Proposed Ordinance

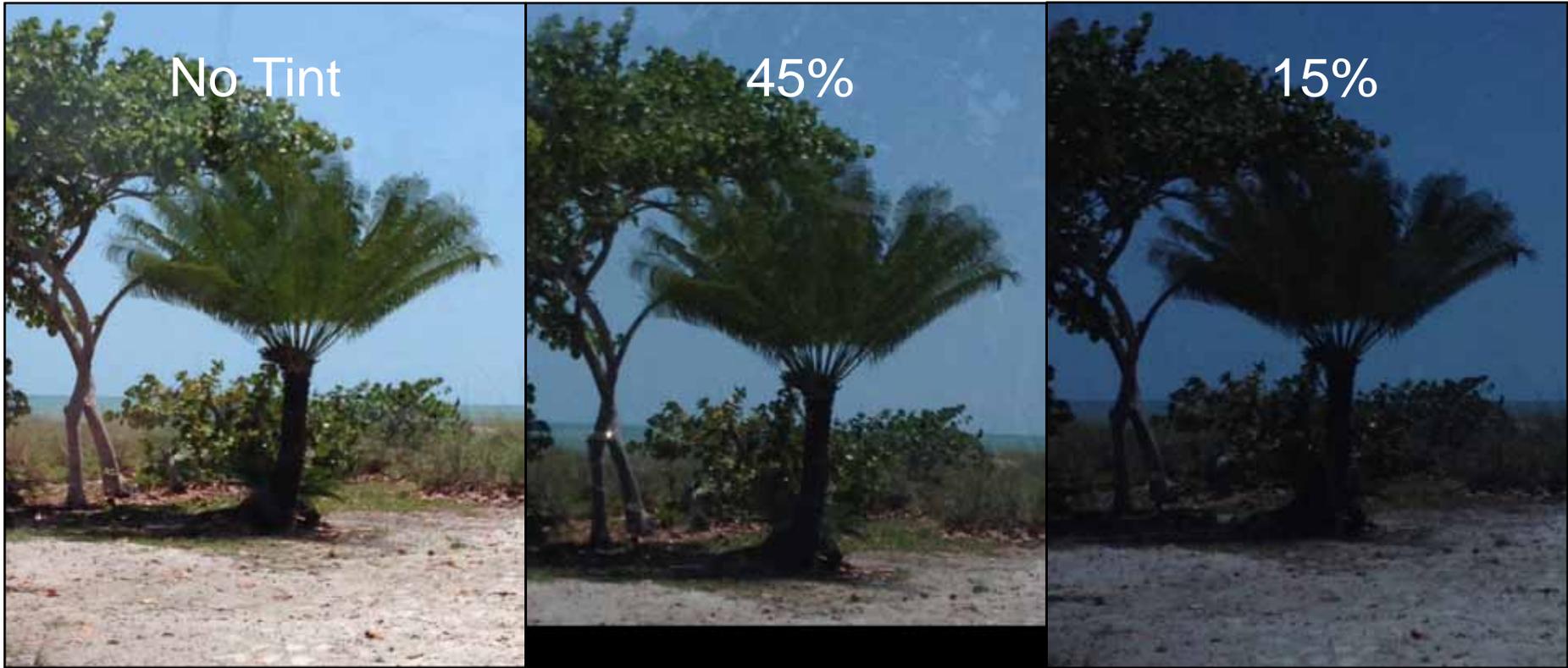
§ Existing Development Interior Lighting:

- § Provides property owners with alternatives for compliance based on individual situations. Alternative options include:
- Turn lights off.
 - Utilize window treatments;
 - Rearrange movable fixtures;
 - Apply tinted or filmed glass with an inside-to-outside light transmittance value of 45 percent or less.





Elements of Proposed Ordinance



Window Tint Examples



Elements of Proposed Ordinance

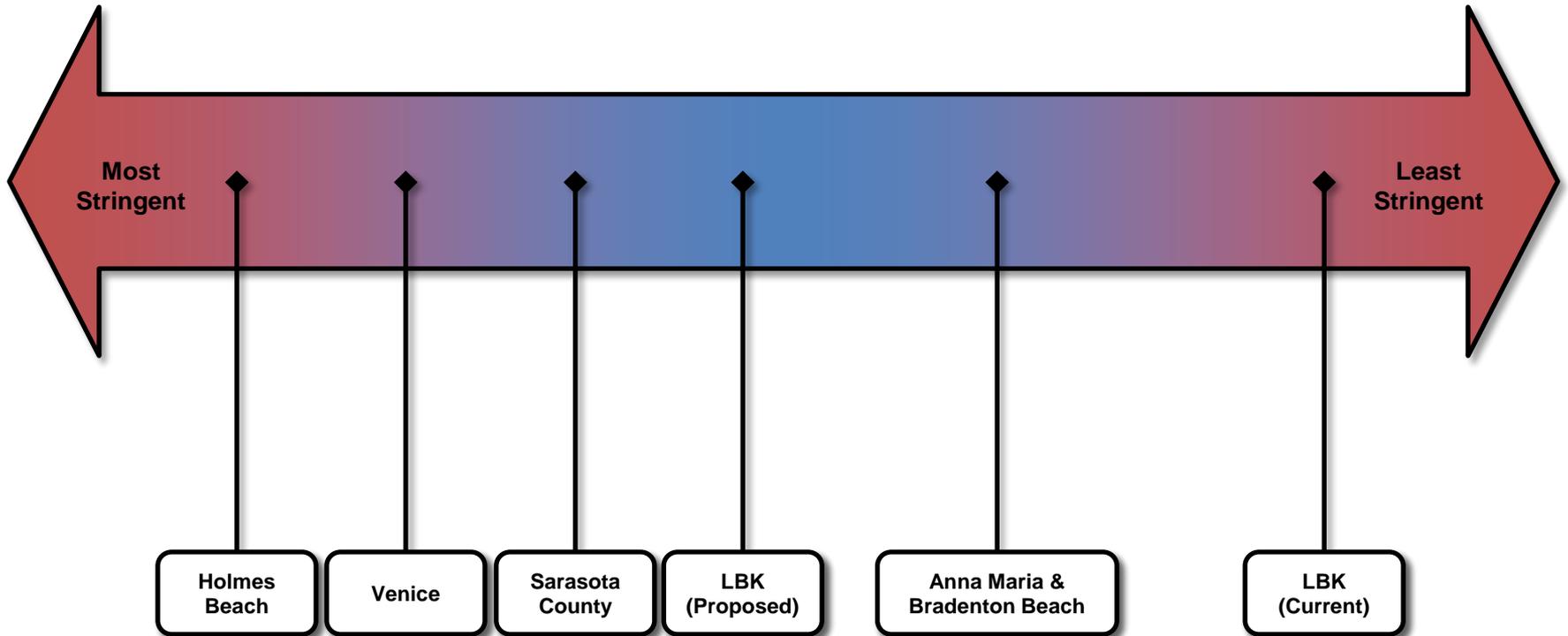
§ Obstructions on Beach:

- § Requires temporary structures and portable recreational equipment be removed from the beach from 11:00 p.m. – 5:00 a.m. every day.
- § Provides exceptions for temporary structures that are relocated along the dune.





Ordinance Comparison





Conclusion

- § Staff recommends revisions to Chapter 100 – Sea Turtles of the Town code.
- § An amended ordinance based on Sarasota County is attached for consideration.
- § Staff requests direction on the current and proposed ordinance.



Questions?

ORDINANCE 2016-15

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, RELATING TO PUBLIC SAFETY AND TO THE PROTECTION OF SEA TURTLES; AMENDING THE CODE OF ORDINANCES, TITLE 9 GENERAL REGULATIONS, CHAPTER 100 SEA TURTLES; RENAMING CHAPTER 100 SEA TURTLES TO MARINE TURTLE PROTECTION; RENAMING AND AMENDING SECTION 100.02 PURPOSE OF PROVISIONS TO SECTION 100.01 PURPOSE OF PROVISIONS; RENAMING AND AMENDING SECTION 100.01 DEFINITIONS TO SECTION 100.02 DEFINITIONS; AND AMENDING SECTION 100.02 FOR "ARTIFICIAL LIGHT," "BEACH," "COASTAL CONSTRUCTION CONTROL LINE (CCCL)," "DIRECT ILLUMINATION," "LOW-PROFILE LUMINARIES," "NEW DEVELOPMENT," AND BY ADDING DEFINITIONS OF "BEACH ACCESS," "COASTAL CONSTRUCTION ACTIVITIES," "CUMULATIVELY ILLUMINATED," "DECORATIVE LIGHTING," "DOWNWARD-DIRECT," "DUNE," "EXISTING DEVELOPMENT," "FDEP," "FLOODLIGHT," "FRONTAL DUNE," "FWC," "FWC APPROVED MARINE TURTLE FIXTURES AND BULBS," "FWS," "GROUND-LEVEL BARRIER," "HATCHLING," "ILLUMINATED," "INDIRECTLY ILLUMINATED," "LIGHT FIXTURE," "MARINE TURTLE," "NEST," "NESTING SEASON," "NIGHTTIME," "OFFICIAL TRAFFIC CONTROL DEVICE," "OFFICIAL TRAFFIC CONTROL SIGNAL," "POINT SOURCE," "PORTABLE RECREATIONAL EQUIPMENT," "SHIELD," "SHIELDED," "SPOTLIGHT," "TEMPORARY STRUCTURES," "TINTED OR FILMED GLASS," "UPLIGHT," AND "VISIBLE FROM THE BEACH" TO THE REGULATIONS; RENAMING AND AMENDING SECTION 100.03 FROM NEW DEVELOPMENT; REQUIREMENTS; PROHIBITIONS TO LIGHTING STANDARDS FOR NEW DEVELOPMENT, AMENDING SECTION 100.03 TO INCLUDE ADDING AND AMENDING EXTERIOR ARTIFICIAL LIGHT FIXTURES, SOURCES OF ARTIFICIAL LIGHT, DIRECT ILLUMINATION, INDIRECT ILLUMINATION, CUMULATIVE ILLUMINATION, FLOODLIGHTS AND ACCENT LIGHTS, MOTION DETECTOR LIGHTING, DUNE CROSSWALK LIGHTING, PARKING AREA LIGHTING, VEHICULAR LIGHTING, TINTED OR FILMED GLASS, ILLUMINATED SIGNS AND TEMPORARY CONSTRUCTION LIGHTING; AMENDING SECTION 100.5 EXISTING DEVELOPMENT TO INCLUDE ADDING AND AMENDING EXTERIOR ARTIFICIAL LIGHT FIXTURES, SOURCE OF ARTIFICIAL LIGHT, DIRECT ILLUMINATION, INDIRECT ILLUMINATION, CUMULATIVE ILLUMINATION, GROUND-LEVEL BARRIERS, INTERIOR LIGHTING, FLOODLIGHTS AND ACCENT LIGHTS, MOTION DETECTOR LIGHTING, DUNE CROSSWALK LIGHTING, ILLUMINATED SIGNS AND VARIANCES; AMENDING SECTION 100.06 PUBLICLY OWNED LIGHTING TO INCLUDE ADDING AND AMENDING PUBLICLY OWNED LIGHTING, TRAFFIC CONTROL DEVICES AND TRAFFIC CONTROL SIGNALS; RENAMING SECTION 100.07 FROM ENFORCEMENT AND PENALTY TO PROHIBITED ACTIVITIES; DELETING REFERENCES TO ENFORCEMENT PROCESS IN SECTION 100.07 AND AMENDING BY ADDING TRANSIENT LIGHTING, OPERATION OF MOTOR VEHICLES ON THE BEACH, PROMOTIONAL ACTIVITIES, FIRES ON THE BEACH, PLACING TRASH ON THE BEACH,

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

LAUNCHING MOTORIZED VESSEL FROM THE BEACH, GOLFING ON THE BEACH, USING PUBLIC BEACH ACCESS FOR MECHANICAL BEACH CLEANING, ANIMALS ON THE BEACH; ADDING SECTION 100.08 OBSTRUCTIONS ON THE BEACH AND BEACH ACCESS AREAS PROHIBITED BY LIMITING TEMPORARY STRUCTURES AND PORTABLE RECREATIONAL EQUIPMENT ON THE BEACH AND PROVIDING FOR ENFORCEMENT AND PENALTIES; ADDING SECTION 100.09 UNLAWFUL TO KILL, MOLEST, OR INJURE MARINE TURTLES BY ADDING PROVISIONS OF CHAPTER 379.2431 OF THE FLORIDA STATUTE; RENUMBERING SECTION 100.07 ENFORCEMENT AND PENALTY TO SECTION 100.10 ENFORCEMENT AND PENALTY; AMENDING SECTION 100.10 ENFORCEMENT AND PENALTY BY PROVIDING FOR ENFORCEMENT AND PENALTY; ADDING SECTION 100.11 LOCAL APPROVAL NOT EXCLUSIVE; ADDING SECTION 100.12 APPLICABILITY; ADDING SECTION 100.13 SEVERABILITY; PROVIDING FOR SEVERABILITY; AMENDING SECTION 100.20 SEA TURTLE VEGETATION PROTECTION; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Longboat Key recognizes marine turtles are protected by federal, state, and local law; and

WHEREAS, in addition to being a major factor in attracting purchasers and tourists to choose Longboat Key at the place to invest, reside or vacation, the Town recognizes the Gulf of Mexico beaches serve as prime nesting and hatching habitat for hundreds of marine turtles; and

WHEREAS, the Town of Longboat Key recognizes that artificial lighting of beaches is a serious threat to marine turtles and other species utilizing its beaches; and

WHEREAS, the Town of Longboat Key recognizes that nesting adult and hatchling marine turtles are negatively affected by artificial lighting; and

WHEREAS, the Town of Longboat Key recognizes that temporary structures and portable recreation equipment left on the beach is a public nuisance and is a serious threat to marine turtles; and

WHEREAS, the Town of Longboat Key desires to minimize the detrimental impact on marine turtles and other species utilizing its beaches while maintaining lighting standards necessary for public safety and security; and

WHEREAS, the Town Commission of the Town of Longboat Key, after careful consideration, determined that the protection of marine turtles, nesting sites, and hatchlings is of a significant public interest; and

WHEREAS, after careful consideration, the Town Commission has determined that the balance between the interests of its residents in the full use and enjoyment of the beaches and their beachfront residences, on the one hand, and safeguarding nesting female marine turtles and their hatchlings, on the other hand, needs to be adjusted to

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

provide greater protection for the latter through significantly reducing the adverse effects of artificial lighting and the prohibition and/or removal from the beach of temporary structures and portable recreational equipment that might interfere with the nesting of marine turtles, and

WHEREAS, these amendments to the Code of Ordinances for the Town of Longboat Key, Florida, as provided herein, are consistent with the Town's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:

SECTION 1. The Whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Title 9 *General Regulations*, Chapter 100, *SEA TURTLES* is hereby amended to read:

Chapter 100 - ~~SEA TURTLES~~ MARINE TURTLE PROTECTION

Sections:

100.01 ~~400.02~~ - Purpose of provisions.

The purpose of this chapter is to protect ~~the threatened and endangered sea~~ marine turtles which nest along the beaches of the town by safeguarding the nesting female and hatchlings from the adverse effects sources of artificial light and from injury or harassment by prohibiting activities disruptive to marine turtles, while maintaining lighting standards necessary for public safety and security.

100.02 ~~400.04~~ - Definitions.

For the purpose of this chapter, the following terms shall have the meaning set forth in this section:

(A) "Artificial light." Any source of light emanating from a human-made device. ~~manmade device, including, but not limited to, incandescent mercury vapor, metal halide, or sodium lamps, flashlights, spotlights, street lights, vehicular lights, construction or security lights.~~

(B) "Beach." That area of unconsolidated material that extends landward from the mean low waterline 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 storm waves).~~

"Beach access." 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.

"Coastal construction activities." Any work or activity that may have a physical effect on existing coastal conditions or natural shore and inlet processes.

(C) "Coastal Construction Control Line (CCCL)." The portion of the Coastal Construction Control Line established pursuant to the provisions of Chapter 161.053 of the Florida Statute that lies within Sarasota County and Manatee County. ~~The State Coastal Construction Control Line for Manatee County and the original proposed State Coastal Construction Setback Line for Sarasota County on file in town hall.~~

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

“Cumulatively Illuminated.” Illuminated by multiple artificial light sources that as a group illuminate any portion of the beach.

“Decorative lighting.” Any source of artificial lighting used solely for accent or decorative purposes. Decorative lighting shall include, but are not limited to, accent lighting and landscape lighting.

~~(D)~~ “Directly illuminated.” Glowing element(s), lamp(s), or globe(s) of an artificial light source or electronic device(s) which illuminate, and are visible from, any portion of the beach. “Direct illumination of the beach.” Light from a point source which is sufficiently strong to cast a detectable shadow on the beach on a dark, moonless night.

“Downward-direct.” Light fixture which directs artificial light entirely down.

“Dune.” A mound or ridge of loose sediments, usually sand sized, lying landward of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation, and is subject to fluctuations in configuration and location.

“Existing development.” Any building or structure for which a building permit has been issued prior to the adoption of this chapter.

“FDEP.” Florida Department of Environmental Protection or successor agency.

“Floodlight.” A reflector-type light fixture which is freestanding or attached directly to a building or other structure and which is unshielded.

“Frontal dune.” The first natural or manmade mound or bluff of sand which is located landward of the beach and which has sufficient ground vegetation, height, continuity and configuration to offer protective value.

“FWC.” Florida Fish and Wildlife Conservation Commission or successor agency.

“FWC approved marine turtle fixtures and bulbs.” Fixtures and bulbs that have been reviewed through the Wildlife Lighting Certification Process and approved by FWC for marine turtle lighting use, or similar fixtures and bulbs that meet the same lighting standards for marine turtle lighting use.

“FWS.” United States Fish and Wildlife Service or successor agency.

“Ground-level barrier.” Any vegetation, natural feature or artificial structure rising from the ground that prevents artificial light from directly, indirectly, or cumulatively illuminating any of the beach.

“Hatchling.” Any species of marine turtle, within or outside of a nest, which has recently hatched from an egg.

“Illuminated” Exposed to light from an artificial light source that does not meet the approved specification of this chapter in a way that produces a detectable brightness visible from any portion of the beach.

“Indirectly illuminated.” Illumination of any portion of the beach as a result of an artificial light source in which the artificial light source is not directly visible from any portion of the beach.

“Light fixture.” The mechanism which, or within which, sources of artificial light are attached.

~~(E)~~ “Low-profile luminaries luminaire.” 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 downward-direct directed downward from a shielded light source.

“Marine turtle.” Any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in Florida waters or using any portion of the beach as nesting habitat, including, but not limited to, the species: Caretta caretta (loggerhead), Chelonia mydas (green), Dermochelys coriacea (leatherback), Eretmochelys imbricata (hawksbill), and Lepidochelys kempii (Kemp's ridley). For purposes of this chapter, marine turtle is synonymous with sea turtle.

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

"Nest." An area where marine turtle eggs have been naturally deposited or subsequently relocated.

"Nesting season." The period from May 1 through October 31 of each year, or as amended by FDEP, FWC, FWS or appropriate agency.

~~(F)~~ "New development." Shall include Includes new construction and remodeling of existing structures when such remodeling includes alteration of exterior lighting or replacement of any glass or glazing.

"Nighttime." The locally effective time period between sunset and sunrise.

"Official traffic control device." All signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding vehicular or pedestrian traffic.

"Official traffic control signal." Any device, whether manually, electrically, or mechanically operated, by which vehicular or pedestrian traffic is alternately directed to stop and permitted to proceed.

~~(G)~~ "Person." Any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, group, or unit or federal, state, county or municipal government.

"Point source." Any bulb(s), lamp(s), or glowing element(s) of any light fixture or electronic device(s) from which artificial light is emitted.

~~(H)~~ "Pole lighting." Light fixture set on a base or pole which raises the source of the light higher than 48 inches off the ground.

"Portable recreational equipment." Any human-made object with a location or arrangement that is temporary or transient in nature. Portable recreational equipment shall include, but are not limited to, inflatable recreational equipment, grills, volleyball nets, fishing equipment, or vessels.

"Shield." A covering, hood or canopy or other such device with a non-reflective interior, which is fitted over, around and extended below an artificial light source, preventing light from illuminating the beach.

"Shielded." Fitted with a shield.

"Spotlight." Light fixture designed to project a narrow, intense beam of artificial light in a specific direction.

"Temporary structures." Any human-made structure or objects with a location or arrangement that is temporary or transient in nature. Temporary structures and objects shall include, but are not limited to, tents, canopies, chairs, tables, umbrellas, and cabanas.

"Tinted or filmed glass." Any glass or glazing treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent 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.

"Uplight." Light fixture designed to cast artificial light upward.

"Visible from the beach." Visible to a person standing on any portion of the beach.

100.03 - Lighting standards for new development. ~~New development; requirements; prohibitions.~~

~~It is the policy of the town commission that no artificial light illuminate any area of the gulf beaches of the town. To meet this intent, building and electrical plans for construction of single-family or multifamily dwellings, commercial or other structures, including electrical plans associated with parking lots, dune walkovers or other outdoor lighting for~~

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

~~real property if lighting associated with such construction or development can be seen from the beach, shall be in compliance with the following:~~

~~(A) Direct illumination of the beach shall be prohibited. Wall-mounted light fixtures shall be fitted with hoods so that no light illuminates the beach.~~

~~(B) Pole lighting shall be shielded in such a way that light will be contained within an arc of three to 73 degrees on the seaward side of the pole. Outdoor lighting shall be held to the minimum necessary for security and convenience.~~

~~(C) Low-profile luminaries shall be used in parking lots, and such lighting shall be positioned so that no light illuminates the beach.~~

~~(D) Dune crosswalks shall utilize low-profile shielded luminaries.~~

~~(E) Lights on balconies shall be fitted with hoods or shades so that lights will not illuminate the beach.~~

~~(F) Temporary security lights at construction sites shall not be mounted more than 15 feet above the ground. Illumination from the lights shall not spread beyond the boundary of the property being developed, and in no case shall those lights illuminate the beach.~~

In order to provide protection for nesting marine turtles and their hatchlings during marine turtle nesting season while maintaining lighting standards necessary for public safety and security, the following standards are adopted for artificial light sources on all new development, coastal construction activities, and building and electrical plans for construction of any structure and shall be in compliance with the following, if the proposed development is water ward of the Coastal Construction Control Line (CCCL), or if the development creates any artificial light sources that will be visible from the beach. Provisions of this section apply, but are not limited to, all new coastal construction activities and development, including electrical plans associated with parking lots, dune walkovers, or other outdoor lighting for real property:

(A) Exterior artificial light fixtures shall be designed and positioned so that:

1. The point source of artificial light or any reflective interior surface of the light fixture is not directly visible from the beach; and

2. Areas seaward of the frontal dune, or the beach in areas where the frontal dune no longer exists, are not directly, indirectly, or cumulatively illuminated.

(B) Exterior artificial light fixtures within direct line of sight of the beach are permitted if lights are completely shielded downlight-direct fixtures with non-reflective interior surfaces or completely recessed fixtures with non-reflective interior surfaces. These fixtures shall utilize FWC approved marine turtle fixtures and bulbs during marine turtle nesting season and shall be in compliance with subsection (A) of this section.

(C) All fixtures shall be mounted as low in elevation when possible through use of low-mounted wall fixtures, low-profile luminaries, low bollards, and ground-level fixtures.

(D) Floodlights, uplights, spotlights, or decorative lighting in which the point source of artificial light or any reflective interior surface of the light fixture is directly visible from the beach, or which directly, indirectly, or cumulatively illuminate the beach are prohibited. All light fixtures on floodlights, uplights, spotlights, or decorative lighting shall utilize FWC approved marine turtle bulbs during marine turtle nesting season.

(E) The use of motion detecting lighting devices that keep artificial lights off except when approached are required for all exterior lights used expressly for safety or security during marine turtle nesting season. All motion detecting lighting devices shall be set to the minimum duration possible for illumination according to the manufacturers specifications for the device during marine turtle nesting season.

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

(F) Dune crosswalks may be lighted. If lighted, dune crosswalks shall utilize low-profile, completely shielded luminaries, with non-reflective interior surfaces directed and positioned so that the point source of artificial light or any reflective interior surface of the light fixture is not directly visible from the beach. All light fixtures on dune crosswalks shall utilize FWC approved marine turtle fixtures and bulbs during marine turtle nesting season. Dune crosswalk lighting seaward of the frontal dune, or on the beach in areas where the frontal dune no longer exists, shall be prohibited.

(G) Parking areas within direct line-of-sight of the beach shall be designed with the minimum lighting necessary to provide safety and security and lighting shall be:

1. Downward-direct and completely shielded;
2. Utilize low-profile luminaries and bollards to the maximum extent possible. Any pole lighting determined to be necessary to provide safety and security shall be completely shielded and installed at a maximum height of 12 feet; and
3. Positioned or shielded with non-reflective interior surfaces so that the light is downward-direct and the point source of artificial light or any reflective interior surface of the light fixture is not directly visible from the beach and does not directly, indirectly, or cumulatively illuminate the beach.

(H) Except for single-family residences, all newly constructed parking areas and driveways, including any paved or unpaved areas upon which motorized vehicles will park or operate, shall be designed and located to prevent vehicular headlights from directly, indirectly, or cumulatively illuminating the beach.

(I) Vehicular lighting, parking area lighting, and roadway lighting shall be downward-direct and 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-term or long-term damage to the beach and/or dune system.

(J) Tinted or filmed glass shall be installed on all windows and doors of single- or multi-story structures within direct line of sight of the beach. Tint or film must meet the standards for tinted or filmed glass as stated in the definition of tinted or filmed glass of this chapter.

(K) Lights illuminating signs and internally illuminated signs shall be designed, positioned, shielded and/or screened in such a manner that they do not directly, indirectly or cumulatively illuminate the beach and that any artificial light internally or externally illuminating any sign shall not be visible from any portion of the beach.

(L) Temporary lighting of construction sites during marine turtle nesting season shall be restricted to the minimal amount necessary and shall incorporate all standards of this section.

100.04 - New development; exemptions.

The provisions of section 100.03 of this chapter shall not apply to any structure for which a building permit has been issued by the building department prior to the effective date of this chapter.

100.05 - Existing development.

~~It is the policy of the town commission that no artificial light illuminate any area of the gulf beaches of the town. To meet this intent, lighting of existing structures which can be seen from the beach shall be in compliance with the following within six months of the effective date of the ordinance codified in this chapter:~~

~~(A) Lights illuminating buildings or associated grounds for decorative or recreational purposes shall be shielded or screened such that they do not illuminate the beach, or~~

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

~~turned off or dimmed from sunset to sunrise during the period of May 1 to October 31 of each year.~~

~~(B) Lights illuminating dune crossovers of any areas seaward of the dune line shall be turned off or dimmed from sunset to sunrise during the period of May 1 to October 31 of each year.~~

~~(C) Security lighting shall be permitted throughout the night so long as low-profile luminaries are used and are screened to prevent direct illumination of the beach.~~

In order to provide protection for nesting marine turtles and their hatchlings during marine turtle nesting season while maintaining lighting standards necessary for public safety and security, the following standards are adopted for artificial light sources on all existing developments and existing structures that are visible from the beach, and shall be in compliance with the following within six months of the effective date of the ordinance codified in this chapter:

(A) Existing artificial light fixtures shall be repositioned, modified, replaced or removed so that:

1. The point source of artificial light or any reflective interior surface of the light fixture is not directly visible from the beach; and

2. Areas seaward of the frontal dune, or the beach in areas where the frontal dune no longer exists, are not directly, indirectly, or cumulatively illuminated during marine turtle nesting season.

(B) One or more of the following measures shall be taken to reduce or eliminate the negative effects of existing exterior artificial lighting, so that all existing developments are in compliance with subsection (A) of this section:

1. Replace fixtures having an exposed point source of artificial light with completely shielded downlight-direct fixtures with non-reflective interior surfaces or completely recessed fixtures with non-reflective interior surfaces which utilize FWC approved marine turtle fixtures and bulbs;

2. Replace traditional light bulbs with FWC approved marine turtle fixtures and bulbs;

3. Replace non-directional fixtures with completely shielded downward-direct fixtures with non-reflective interior surfaces which utilize FWC approved marine turtle fixtures and bulbs;

4. Replace fixtures having transparent or translucent coverings with shields with non-reflective interior surfaces designed to be in compliance with subsection (A) of this section and utilize FWC approved marine turtle fixtures and bulbs;

5. Replace pole lamps with low-profile, low-level luminaries which utilize FWC approved marine turtle fixtures and bulbs;

6. Plant or improve native vegetation buffers between the point source of artificial light and the beach to sufficiently screen artificial light from directly, indirectly, or cumulatively illuminating the beach;

7. Construct a ground-level barrier to shield point sources of artificial light from the beach. Ground level barriers must not interfere with marine turtle nesting or hatchling emergence, or cause short-term or long-term damage to the beach and/or dune system; and/or

8. Remove, turn off, or disable any fixture which cannot be brought into compliance with the provisions of this chapter.

(C) One or more of the following measures shall be taken to reduce or eliminate the negative effects of existing interior artificial lighting emanating from doors and windows

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

within direct line of sight of the beach during marine turtle nesting season so that all existing developments are in compliance with subsection (A) of this section:

1. Turn off unnecessary lights;
2. Use window treatments (e.g., blinds, shutters, curtains, or similar treatments) to shield interior lights from the beach;
3. Rearrange moveable lighting fixtures away from windows; and/or
4. Apply window tint or film. Tint or film must meet the standards for tinted or filmed as stated in the definition of tinted or filmed glass of this chapter.

(D) Floodlights, uplights, spotlights, or decorative lighting in which the point source of artificial light or any reflective interior surface of the light fixture is directly visible from the beach, or which directly, indirectly, or cumulatively illuminate the beach are prohibited. All light fixtures on floodlights, uplights, spotlights, or decorative lighting shall utilize FWC approved marine turtle bulbs during marine turtle nesting season.

(E) The use of motion detecting lighting devices that keep artificial lights off except when approached are required for all existing exterior lights used expressly for safety or security during marine turtle nesting season. All motion detecting lighting devices shall be set to the minimum duration possible for illumination according to the manufacturers specifications for the device during marine turtle nesting season.

(F) Existing dune crosswalks may be lighted. If lighted, existing illumination of dune crosswalk shall utilize low-profile, completely shielded luminaries, with non-reflective interior surfaces directed and positioned so that the point source of artificial light or any reflective interior surface of the light fixture is not directly visible from the beach. All light fixtures on dune crosswalks must utilize FWC approved marine turtle fixtures and bulbs during marine turtle nesting season. Dune crosswalk lighting seaward of the frontal dune, or on the beach in areas where the frontal dune no longer exists, shall be prohibited.

(G) Lights illuminating signs and internally illuminated signs shall be designed, positioned, shielded and/or screened in such a manner that they do not directly, indirectly or cumulatively illuminate the beach and that any artificial light internally or externally illuminating any sign shall not be visible from any portion of the beach.

(H) The Town Commission is authorized to grant variances to the date of compliance, after notice to the owner and a public hearing, where lighting installed before the adoption of the ordinance from which this chapter derives would be in violation of this chapter. Requests for variances must be submitted in writing to the town clerk. The variance will be considered by the Town Commission at a regularly scheduled meeting. Such variances may be granted only where the applicant has demonstrated that the application of these standards to lighting will cause such an undue and unique hardship to the property, and that more time is needed to amortize the owner's reasonable investment in the lighting. In granting a variance, the Town Commission shall specify a schedule and plan to attain compliance. Violation of the terms of such a plan or schedule shall constitute a violation of this chapter.

100.06 - Publicly owned lighting.

~~Street lights and lighting at parks and other publicly owned beach access areas shall be subject to the following:~~

~~(A) Whenever possible, streetlights shall be located so that the bulk of their illumination will travel away from the beach.~~

~~(B) Lights at parks or other public beach access points shall be shielded or shaded or shall not be utilized during the period May 1 to October 31 of each year.~~

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

All publicly owned lighting with light sources that are visible from the beach including, but not limited to, streetlights, parking lot lights, and beach access lighting, shall be:

(A) Fitted with a shield or positioned so that the point source of artificial light is not visible from the beach and do not directly, indirectly, or cumulatively illuminate the beach;

or

(B) Extinguished between sunset and sunrise during marine turtle nesting season.

(C) Specifically exempted from the terms of this chapter are official traffic control devices and official traffic control signals.

100.07 - Prohibited activities Enforcement and penalty.

Sections 100.01 through 100.07 of this chapter shall be enforced by the code enforcement board in accordance with the provisions of chapter 33, sections 33.01 through 33.12 of this Code.

The following activities and situations are prohibited on the beach daily:

(A) 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;

(B) The operation of all motorized vehicles, with the exception of:

1. Emergency and law enforcement vehicles;

2. 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; and

3. Construction, renourishment, and beach cleaning activities that have authorization or a permit to operate motorized vehicles on the beach as issued by FWS, FDEP, FWC or the town, and who are acting in conformance with such authorization or permit;

(C) Engage in promotional or commercial activities or otherwise hold a special event, as defined in Chapter 92, Subsection 92.06(A) of the Town of Longboat Key Code of Ordinances, without first obtaining a special events permit pursuant to Chapter 92, Subsection 92.06 of the Town of Longboat Key Code of Ordinances;

(D) Start a fire, other than fires for cooking purposes contained in a grill or stove, pursuant to Chapter 92, Subsection 92.05(F) of the Town of Longboat Key Code of Ordinances;

(E) Throw, place, or deposit any paper, food, trash, cans, bottles, or other refuse, except in designated refuse containers pursuant to Chapter 92, Subsection 92.05(G) of the Town of Longboat Key Code of Ordinances;

(F) Launch a motorized vessel into the waters of the Gulf of Mexico by bringing it across the beach, except in an emergency pursuant to Chapter 92, Subsection 92.05(K) of the Town of Longboat Key Code of Ordinances;

(G) Golf, including chip and putt pursuant to Chapter 92, Subsection 92.05(M) of the Town of Longboat Key Code of Ordinances;

(H) Use any public beach access for the transportation of mechanical beach cleaning equipment pursuant to Chapter 92, Subsection 92.05(N) of the Town of Longboat Key Code of Ordinances;

(I) Possess any pet or animal on the beach except as provided in Chapter 92, Subsection 92.04 of the Town of Longboat Key Code of Ordinances; or

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

(J) Engage in any other activity in violation of Chapter 92 of the Town of Longboat Key Code of Ordinances.

100.08 - Obstructions on the beach and beach access areas prohibited.

The following activities and situations are prohibited on the beach and beach access areas during marine turtle nesting season:

(A) No temporary structure(s) or portable recreational equipment shall be located on the beach or public beach access located within the corporate limits of the Town of Longboat Key from 11:00 p.m. until 5:00 a.m. daily during marine turtle nesting season, except as otherwise permitted in this chapter.

(B) Unattended or abandoned temporary structure(s) or portable recreational equipment are declared a public nuisance and interfere with the use of the natural beach environment for nesting habitat. Any temporary structure(s) or article(s) of portable recreational equipment that remain on the beach or public beach access in violation of this chapter shall be deemed abandoned by the owner and shall be tagged or removed by the code enforcement officer or designee. Any temporary structure(s) or portable recreational equipment so removed shall be stored in areas designated by the Town for that purpose of avoiding interference with marine turtles. After 90 days of impoundment, as required by Chapter 705.103 of the Florida Statute, the town may dispose of any item(s) removed pursuant to this section. The town may, by resolution, enact an impoundment fee to be collected at the time any items are retrieved from impoundment by the party claiming the item(s).

(C) From 11:00 p.m. until 5:00 a.m. daily during marine turtle nesting season, temporary structures that are relocated as close to the dune, or where there are no dunes or native vegetation, are relocated as close as practicable to an existing permanent structure or the line of buildings, will not be considered abandoned or in violation of this chapter, provided:

1. Such temporary structures shall not be placed on the dune or on native vegetation;
2. Such temporary structures shall be stored in a neat and orderly manner as much as possible;
3. Such temporary structures shall not inhibit access to the beach from the nearest public beach access, nor obstruct access on the beach, nor adversely impact native vegetation, nor significantly affect marine turtles; and
4. Such temporary structures shall not be placed on any public beach access point.

100.09 - Unlawful to kill, molest, or injure marine turtles.

In accordance with Chapter 379.2431 of the Florida Statute "Marine Turtle Protection Act" and the Endangered Species Act of 1973, it shall be unlawful for any person to kill, molest, harass, or cause direct or indirect injury to any species of marine turtle within the corporate limits of the town or its jurisdictional waters. It shall be unlawful to collect or possess any part of a marine turtle, turtle nest and/or egg(s). The Town of Longboat Key will cooperate with appropriate state and federal agencies in prosecuting violations of the act.

100.07 100.10 - Enforcement and penalty.

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

~~Sections 100.01 through 100.07 of this chapter shall be enforced by the code enforcement board in accordance with the provisions of chapter 33, sections 33.01 through 33.12 of this Code.~~

The code enforcement officer shall have the power to enforce the provisions of this chapter through civil fines and administrative proceedings, including, but not limited to, code enforcement proceedings in accordance with Chapter 33 of the Code of Ordinances of the Town of Longboat Key, Chapter 162 of the Florida Statute, and by equitable or legal judicial proceedings. Each day of any such violation shall constitute a separate and distinct offense.

100.11 - Local approval not exclusive.

Approval required pursuant to this chapter 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 chapter does not excuse any person from having to comply with other applicable federal, state, regional or local laws.

100.12 - Applicability.

This chapter shall be applicable and enforceable throughout the Town of Longboat Key.

100.13 - Severability.

It is declared to be the legislative intent that, if any section, subsection, sentence, clause, or provision of this chapter is held invalid, the remainder of this chapter shall not be affected.

100.20 - Sea Marine turtle vegetation protection.

(A) It shall be unlawful for any person, without the express written permission from the town manager, to cut, trim, modify, fertilize, defoliate, kill, harm, or in any way alter vegetation planted on the west side of Gulf of Mexico Drive between 3495 Gulf of Mexico Drive and 4011 Gulf of Mexico Drive located within the FDOT right-of-way between the paved portion of Gulf of Mexico Drive and the westerly sidewalk.

(B) Any person, firm, company, corporation, association or agent of any person, firm, company, corporation, association who violates subsection 100.20(A) shall be deemed guilty of a misdemeanor in the first degree and upon conviction shall be fined in a sum of not more than \$500.00 for each occurrence or imprisoned for not more than 60 days with unlawful activity concerning each plant constituting a separate offense. Nothing contained herein shall preclude prosecution under the Marine Protection Turtle Act (F.S. § 370.12 as may be amended) or the Federal Endangered Species Act.

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

SECTION 4. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 5. This Ordinance shall take effect upon second reading in accordance with Law and the Charter of the Town of Longboat Key.

ORDINANCE NOT APPROVED FOR PUBLIC HEARING BY TOWN COMMISSION

Passed on the first reading on the _____ day of _____, 2016.

Adopted on second reading and public hearing the _____ day of _____, 2016.

Jack G. Duncan, Mayor

ATTEST:

Trish Granger, Town Clerk



End of Agenda Item