

ORDINANCE NO. 2018-04

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 AMENDING SECTION 3-9 ENTITLED "REQUIREMENTS FOR MARINE TURTLE PROTECTION"; PROVIDING FOR LIGHTING STANDARDS FOR ALL DEVELOPMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

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 Section 3-9 entitled "Requirements for Marine Turtle Protection" which shall read as follows:

Section 3-9 Requirements for Marine Turtle Protection.

Sec. 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 **during the nesting season.**

(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).

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

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

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

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

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

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

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

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

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

17 *IES* means the Illuminating Engineering Society.

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

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

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

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

27 *Lumen* is the measurement of total light output.

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

29 *Marine turtle* means any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found
30 in Florida waters or using the beach as nesting habitat, including the species: *Caretta caretta* (loggerhead),
31 *Chelonia mydas* (green), *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), and
32 *Lepidochelys kempii* (Kemp's ridley). For purposes of this article, marine turtle is synonymous with sea
33 turtle.

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

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

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

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

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

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

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

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

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

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

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

15 ~~(C) — *Lighting standards for new development.* In order to provide the highest level of protection for nesting
16 marine turtles and their hatchlings, the following standards are adopted for artificial light sources on
17 all new coastal construction:~~

18 ~~(1) — Exterior artificial light fixtures shall be designed and positioned so that the point source of light
19 is not directly visible from the beach. Fixtures in line of sight of the beach shall be full cut-off
20 fixtures as defined by the IES.~~

21 ~~(2) — Low profile luminaires shall be used in parking lots and such lighting shall be positioned so that
22 no light directly or indirectly illuminates the beach.~~

23 ~~(3) — Floodlights, up lights or spotlights for decorative, recreational and accent purposes that are
24 directly visible from the beach are prohibited during nesting season.~~

25 ~~(4) — Exterior lights used expressly for safety or security purposes shall be limited to the minimum
26 number and configuration required to achieve their functional role(s). The use of motion detector
27 switches that keep lights off except when approached and that switch lights on for the minimum
28 duration possible are required for any exterior lights used expressly for safety or security. Lights
29 incorporating motion detector switches shall be downward directed and shielded from the beach.~~

30 ~~(5) — All light sources visible from the beach shall be 3,000 kelvin or less, preferably amber/red LED.~~

31 ~~(6) — Tinted or filmed glass shall be installed on all windows and glass doors of single or multistory
32 structures within line of sight of the beach with a light transmittance value of 45 percent or less.~~

33 ~~(7) — Pool lights shall be installed with lighting specifically designed for the safety of marine animals.~~

34 ~~(8) — Balcony lights shall be fitted with hoods so that lights will not directly or indirectly illuminate
35 the beach.~~

36 ~~(9) — Upon completion of the construction activities and prior to issuing a certificate of occupancy for
37 any new development within direct line of sight of the beach, compliance with the beachfront
38 lighting standards for nesting season set forth in this article shall be inspected as follows:~~

1 (a) ~~A specialized lighting inspector shall conduct a site inspection which includes a night survey~~
2 ~~with all exterior lighting turned on and programmed the way it is programmed for turtle~~
3 ~~season.~~

4 (b) ~~The inspector shall prepare and report the inspection finding in writing, identifying:~~

5 1. ~~The date and time of initial inspection;~~

6 2. ~~The extent of compliance with the lighting standards;~~

7 3. ~~All areas of observed noncompliance, if applicable;~~

8 4. ~~Any action(s) taken to remedy observed noncompliance, if applicable.~~

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

12 (CD) Exterior Lighting standards for existing all developments. Within one (1) year from the date of the
13 adoption of the ordinance from which this article derives, all light sources or reflective surfaces
14 illuminated by such sources that are visible from the beach shall be brought into compliance with the
15 following:

16 (1) Exterior artificial light fixtures shall be designed and positioned so that the point source of light
17 is not directly visible from the beach at a height of three (3) feet. Fixtures in line of sight of the
18 beach shall be full cut off fixtures as defined by the IES.

19 (2) Low profile luminaires shall be used in parking lots and such lighting shall be positioned so that
20 no light directly or indirectly illuminates the beach.

21 (3) Floodlights, up-lights or spotlights for decorative, recreational and accent purposes that are
22 directly visible from the beach must be amber/red LED. ~~are prohibited during nesting season.~~
23 Any "point source of lighting" including but not limited to floodlights, up-lights, or spotlights for
24 decorative, recreational and accent purposes shall not be directly visible from the beach during
25 nesting season.

26 (4) Exterior lights used expressly for safety or security purposes shall be limited to the minimum
27 number and configuration required to achieve their functional role(s). The use of motion detector
28 switches that keep lights off except when approached and that switch lights on for the minimum
29 duration not exceeding five (5) minutes are required for any exterior lights used expressly for
30 safety or security. Lights incorporating motion detector switches shall be downward directed.

31 ~~(5) All light sources visible from the beach shall be 3,000 kelvin or less, preferably amber/red LED.~~

32 ~~(6) Interior artificial lighting in line of sight from the beach shall be designed and positioned so~~
33 ~~that the point source of light is not visible from the beach. All interior light sources shall be~~
34 ~~switched off or shielded from view with drapery after 11:00 PM or have installed tinted or filmed~~
35 ~~glass with a light transmittance value of 45 percent or less. Tinted or filmed glass shall be installed~~
36 ~~on all windows and glass doors of single or multistory structures within line of sight of the beach~~
37 ~~with a light transmittance value of 45 percent or less.~~

38 ~~(7)~~ Pool lights shall be installed with amber/red LED lighting specifically designed for the safety
39 of marine animals.

40 ~~(8)~~ Balcony lights shall be fitted with hoods so that lights shall not be visible from the beach.

1 (9) ~~The Town Commission is authorized to grant variances to the date of compliance where lighting~~
2 ~~installed before the adoption of the ordinance from which this article derives would be in violation~~
3 ~~of this article. Requests for variances must be submitted in writing to the Town Clerk. The~~
4 ~~variance will be considered by Town Commission as the Board of Zoning Appeals at a regularly~~
5 ~~scheduled meeting.~~

6
7 (D) Interior artificial lighting in line-of-sight from the beach shall be designed and positioned so that the
8 point source of light is not visible from the beach. All interior light sources shall be switched off or shielded
9 from view with drapery after 9:00 PM or have installed tinted or filmed glass with a light transmittance
10 value not to exceed 45 percent (45%).

11
12 (E) *Compliance inspections.* Periodic nighttime lighting inspections will be performed during nesting
13 season from the beach to determine the extent of compliance with all sections of this article. These
14 inspections will be conducted as needed until existing beachfront lighting has been brought into
15 compliance.

16 (F) *Prohibition of activities disruptive to marine turtles.* The following activities and situations are
17 prohibited on the beach from sunset to sunrise during nesting season:

18 (1) The operation of all motorized vehicles, except emergency and law enforcement vehicles or
19 persons who have authorization or a permit to engage in marine turtle conservation or research
20 issued by FWS, FDEP, FWC or the town, and who are acting in conformance with such
21 authorization or permit.

22 (2) The building of fires during nesting season.

23 (3) Any transient lighting which purposely illuminates nesting sea turtles or hatchlings. This
24 prohibition does not apply to persons who have authorization or a permit to engage in marine
25 turtle conservation or research issued by FWS, FWC, FDEP or the town, and who are acting in
26 conformance with such authorization or permit.

27 (4) Any temporary structures, including, but not limited to, beach chairs, umbrellas and cabanas
28 which have the potential for entrapment of marine turtles and which may interfere with the use of
29 the natural beach environment for nesting habitat. All temporary structures shall be removed from
30 the beach nightly or stacked with the shortest edge facing the shoreline ~~upside-down~~ in a way to
31 reduce the possibilities of entrapment.

32 (G) *Local approval not exclusive.* Approval required pursuant to this article shall be in addition to and
33 not in lieu of any federal, state, regional or other local approvals which may be required for the same
34 or similar activities. Similarly, compliance with provisions of this article does not excuse any person
35 from having to comply with other applicable federal, state, regional or local laws.

36 (H) *Civil powers: criminal penalties.*

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

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

1 (Ord. 2017-295, § 2, passed 7-11-17)

2
3 **Section 3.** If any section, subsection, sentence, clause or provision of this Ordinance is held
4 invalid, the remainder of this Ordinance shall not be affected by such invalidity.

5
6 **Section 4.** That all ordinances or parts of ordinances and all resolutions or parts of resolutions
7 in conflict with this Ordinance are repealed to the extent of such conflict.

8
9 **Section 5.** It is the intention of the Town Commission of the Town of Hillsboro Beach, that the
10 provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Town of
11 Hillsboro Beach, Florida, and the Sections of this ordinance may be renumbered, re-lettered and the word
12 "Ordinance" may be changed to "Section," "Article," or such other word or phrase in order to accomplish
13 such intention.

14
15 **Section 6.** This Ordinance shall be effective fifteen (15) days after its passage and adoption
16 by the Town Commission of the Town of Hillsboro Beach.
17

18 PASSED AND ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF HILLSBORO
19 BEACH, FLORIDA, ON FIRST READING, THIS 10 DAY OF JULY, 2018.

20 PASSED ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH,
21 FLORIDA, ON ~~SECOND~~ FINAL READING, THIS 11 DAY OF SEPT, 2018.



22 By: Deborah L. Tarrant
23 Deborah L. Tarrant, Mayor
24
25

26 ATTEST:

27 By: Sherry D. Henderson
28 Sherry D. Henderson, CMC
29
30



approved as to form
WJ Hoody

SUN SENTINEL

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STATE OF FLORIDA

COUNTY OF BROWARD/PALM BEACH/MIAMI-DADE

Before the undersigned authority personally appeared MARK KUZNITZ who on oath says that he/she is a duly authorized representative of the Classified Department of the Sun-Sentinel, daily newspaper published in Broward/Palm Beach/Miami-Dade County, Florida, that the attached copy of advertisement, being, a NOTICE OF PUBLIC HEARING in the Matter of THE TOWN OF HILLSBORO BEACH - ORD NO. 2018-04 2ND READING appeared in the paper on AUGUST 30, 2018 AD# 5846988. Affiant further says that the said Sun-Sentinel Said newspaper has heretofore been continuously published in said Broward/Palm Beach/Miami-Dade County, Florida, each day, and has entered as second class matter at the post office in Fort Lauderdale, in said Broward County, Florida, for a period of one year next preceding the first publication of the attached copy of she has neither paid, nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Handwritten signature of Mark Kuznitz

Mark Kuznitz, Affiant

Sworn to and subscribed before me on AUGUST 30, 2018 A.D.

Handwritten signature of Notary Public

(Signature of Notary Public)

(Name of Notary typed, printed or stamped)

Personally Known [X] or Produced Identification



PLACE COPY OF LEGAL NOTICE HERE



Town of Hillsboro Beach, Florida
MARINE TURTLE PROTECTION

Notice is hereby given that prior to the Town Commission's consideration of the Second Reading of Ordinance 2018-04 (Marine Turtle Protection), a Public Hearing will be held on Tuesday, September 11, 2018 at 9:00 a.m. at Town Hall, located at 1210 Hillsboro Mile, Hillsboro Beach, FL 33062.

TOWN OF HILLSBORO BEACH, FLORIDA

ORDINANCE NO. 2018-04

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 AMENDING SECTION 3-9 ENTITLED "REQUIREMENTS FOR MARINE TURTLE PROTECTION"; PROVIDING FOR LIGHTING STANDARDS FOR ALL DEVELOPMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

All interested parties may appear at said meeting and be heard with respect to the proposed Ordinance, which may be inspected by the public in the Office of The Town Clerk, Town Hall, 1210 Hillsboro Mile, Hillsboro Beach, FL 33062.

Sherry D. Henderson, CMC Town Clerk
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