

PART III - LAND DEVELOPMENT AND GROWTH MANAGEMENT
Chapter 3-5 - PLANNING AND DEVELOPMENT
ARTICLE XII. SEA TURTLE PROTECTION

Sec. 3-5-296. Definitions.

Unless specifically defined herein, all words or phrases used in this article shall be ascribed the meaning which they have in common usage and which gives this article its most reasonable application.

Artificial light shall mean any source of light emanating from a manmade device, including but not limited to, fluorescent, incandescent, mercury, vapor, metal halide or sodium lamps, spotlights, street lights, vehicular lights, construction or security lights.

Beach shall mean the zone of unconsolidated material that is contiguous with the waters of the Gulf of Mexico and 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).

Construction shall mean any activity intended to modify or improve site conditions including, but not limited to, building, clearing, filling, excavating, grading, mechanical cleaning or planting of vegetation, or the making of any material change in the size or use of any structure or the appearance of site conditions, or the placement of equipment or material upon such sites.

County shall mean Charlotte County.

Department shall mean the Charlotte County Community Development Department.

Directly illuminated shall mean illuminated as a result of glowing element(s), lamp(s), globe(s), or reflector(s) of an artificial light source which is visible to an observer on the beach.

Downlight shall mean light fixtures, generally canister shaped, which direct light predominantly downward and with baffles which reduce and control lateral light preventing the illumination of large areas of building or other reflective surfaces, which is also sometimes known as "wall washing" type illumination.

Dune shall mean a mound or ridge of loose sediments, lying landward of the beach and deposited by any natural or artificial mechanism, and which is of sufficient expanse and stability to absorb or moderate the destructive force of storm-generated ocean waves.

Dune profile shall mean the cross-sectional configuration of the dune.

Floodlight shall mean a reflector type light which is attached directly to a building and which is unshielded.

Ground-level barrier shall mean any natural or artificial structure rising above the ground which prevents beachfront lighting from shining directly onto the beach-dune system.

Hatchling shall mean any individual sea turtle, within or outside of a nest, which has recently hatched from an egg.

Indirectly illuminated shall mean illuminated as a result of the glowing element(s), lamp(s), globe(s), or reflector(s) of an artificial light source which is not visible to an observer on the beach.

Low profile luminaire shall mean a light fixture set on a base which raises the source of the light no higher than twenty-four (24) inches off the ground, and designed in such a way that light is directed downward from a hooded light source.

Nest shall mean any place in which sea turtle eggs are naturally deposited or relocated beneath the sediments of the beach-dune system.

Nesting season shall mean the period from May 1 through October 31 of each year.

Nesting zone shall mean that area of beach and other uplands extending inland from mean high water that are known to be utilized by sea turtles for nesting purposes.

Permitted agent of the state shall mean any qualified individual, group or organization possessing a permit from DNR to conduct activities related to sea turtle protection and conservation.

Person shall mean any individual, firm, association, joint venture, partnership, estate, trust, corporation, group, state officer, or unit of federal, state, county, or municipal government, and all other associations and combinations, whether public or private.

Primary dune shall mean that portion of the dune system containing the highest point of elevation (crest). In those areas where the dune line is discontinuous or has been breached by natural or unnatural causes, the primary dune shall be considered to be the line formed by linking the proximal primary dune to the north and south of the breach.

Sea turtle(s) shall mean any species of marine turtle.

Shielded shall mean fitted with a non-reflective opaque hood, other covering or device which prevents the projection of light from being visible from the beach or from illuminating the nesting zone.

State shall mean the State of Florida.

Tinted glass shall mean any glass 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.

Sec. 3-5-297. Unlawful to kill, molest, or injure sea turtles.

- (a) It shall be unlawful for any person to kill, molest, harass or cause direct or indirect injury to any species of sea turtle in Charlotte County or within its jurisdictional waters.
- (b) It shall be unlawful to collect, transport, or possess any part of a sea turtle or sea turtle nest and/or egg by other than authorized personnel.
- (c) It shall be unlawful to allow canines on any beach not specified as a "Dog Beach" and to allow them to kill, harass or cause direct injury to any species of sea turtle in Charlotte County or within its jurisdictional waters.

Sec. 3-5-298. Coastal construction conducted within the nesting zone during the nesting season.

The intent of this section is to prevent the destruction of sea turtle nests as a result of construction activities conducted within the nesting zone.

- (a) Construction within the nesting zone shall be limited to non-nesting season to the maximum extent possible (November 1 through April 30).
- (b) Any construction occurring during the nesting season (May 1 through October 31) shall be conducted during daylight hours, and it shall be the responsibility of the builder to ensure compliance with the following:

- (1) *State permits.*
 - a. The builder shall obtain written approval from the Florida Department of Environmental Protection (DEP) pursuant to 62B-33, Florida Administrative Code, F.S. Ch. 161, and F.S. section 370.12.
 - b. At the time of application for building permits, the builder shall supply a copy of the DEP authorization to the community development department which will notify the authorized DEP turtle permit holder within forty-eight (48) hours of receipt of the application.
- (2) *Preliminary and daily surveys required.* A permitted agent of the state shall conduct a preliminary survey of the construction site on or prior to May 1 and shall determine if the affected areas is utilized or potentially utilized by sea turtles. If such determination is that the site is utilized or potentially utilized as nesting habitat, then subsequent to the preliminary survey, and beginning no later than May 1, daily nesting surveys of the construction site shall be conducted before that day's construction activities as agreed upon or at 9:00 a.m. by a permitted agent until the completion of the project or the end of the nesting season, whichever occurs first. Nests discovered within a project site during preliminary and daily surveys shall be flagged or relocated to a safe habitat, as determined by the permitted agent.
- (3) *Prevention of construction delays.* If daily nesting surveys are not initiated by May 1, construction activities will be delayed no longer than five (5) working days to provide sufficient time for inspection by a permitted agent.
- (4) *Use of exclusion fences.* A physical barrier used to prevent sea turtles from entering construction areas may be used as an exclusion fence, if permitted by DEP. Exclusion fences shall be monitored by DEP approved personnel and shall be repaired as necessary to prevent breaches. Breaches which result in successful nesting within the excluded area shall be reported to a permitted agent of the DEP for appropriate action.
- (5) *Delineation of construction areas.* Preliminary surveys, daily nesting surveys, and permitted exclusion fences shall encompass all areas seaward of the primary dune upon which construction activities occur and upon which equipment and materials are moved to and from the construction areas.
- (6) *Noninterference.* Construction activities shall not interfere with sea turtle nesting, nests, or hatching activities; shall maximize preservation of native vegetation outside of the building footprint on the site; and shall maintain the natural existing dune profile and minimize interference with the natural beach dynamics and function.
- (7) *Lighting.* Temporary security lights shall not be mounted more than eight feet above the ground and shall be shielded such that the lights will not directly or indirectly illuminate the nesting zone.

Sec. 3-5-299. Permitting

All properties within the nesting zone or which are visible from the nesting zone shall comply with lighting regulations outlined within this Article. If a property is not in compliance with this Article, then it shall be required to become compliant subsequent to an application for a county permit, as follows:

- (a) Upon application for a permit, staff shall review the property for compliance with the sea turtle lighting requirements of this Article, even if the permit does not include a lighting component.**
- (b) Staff reviewing the permit for sea turtle lighting shall immediately release any hold on the permit and shall work with the applicant to ensure that lighting that is not in compliance with this Article is brought into compliance with this Article.**
- (c) Final inspection approval shall not be granted until the lighting is compliant with this Article.**
- (d) Notice of compliance shall be kept as a public record with the County and subsequent permits shall not require lighting review.**

Sec. 3-5-300. Beachfront lighting.

The intent of this section is to prevent the direct, indirect or cumulative artificial illumination of the nesting zone from sunset to sunrise throughout the nesting/hatching season because such illumination may inhibit nesting by adult female sea turtles and disorient hatchlings.

- (a) All properties shall ensure that point sources of light or any reflective surfaces illuminated by point sources of light are not visible from the beach. This applies to interior lights as well as exterior lights.
- (b) All properties shall ensure that point sources of light or any reflective surfaces illuminated by point sources of light do not directly or indirectly illuminate the nesting zone. This applies to interior lights as well as exterior lights.
- (c) All properties with exterior lighting fixtures visible from the beach shall be well shielded, full cut-off, downward directed type of fixtures.
- (d) All properties shall use long wave length lights, e.g. those that produce light that measures greater than 580 nanometers on a spectroscope. Bright white light, such as metal halide, halogen, fluorescent, mercury vapor and incandescent lamps are prohibited. Filters are unreliable and are prohibited. Limited use of shorter wavelength lights may be approved in areas where direct and indirect light or glow could not possibly be visible from the beach. Acceptable lamps are:
 - Low Pressure Sodium (LPS) 18w, 35w
 - Red, orange or amber LED (true red, orange or amber diodes, not filters)
 - True red neon
 - Other lighting sources that produce light of 580 nm or longer
- (e) For construction initiated subsequent to May 1 1990, the following additional requirements shall apply:
 - (1) The following are prohibited:
 - a. Floodlights, uplights, spotlights and other decorative lighting not necessary for human safety or security.
 - b. Private balcony lights.

- c. Pond lights.
 - d. Dune walkover lighting.
 - e. Tree strap downlights.
 - f. Fountain lights.
- (2) Exterior artificial light fixtures in direct line-of-site of the beach shall be completely shielded downlight-only fixtures or recessed fixtures having low wattage (i.e., 50 watts or less) “bug” type bulbs and non-reflective interior surfaces. All fixtures shall be mounted as low in elevation as possible through use of low-mounted wall fixtures, low bollards, and ground-level fixtures.
 - (3) Exterior artificial lights used expressly for safety or security purposes shall be limited to the minimum number and configuration required to achieve their functional role. Motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration possible shall be used.
 - (4) Low profile luminaries only shall be utilized to illuminate beachfront parking areas.
 - (5) Tinted glass shall be installed on all windows and glass doors of single or multi-story structures within line-of-site of the beach.
- (d) For construction completed prior to May 1, 1990, the following additional requirements shall apply:
- (1) Decorative lights, such as floodlights, uplights, and spotlights, shall be turned off from sunset to sunrise during the nesting season.
 - (2) Lights illuminating dune crosswalks or the beach shall be turned off from sunset to sunrise during the nesting season if not modified to be low profile luminaries.
 - (3) Security and safety lighting shall be permitted throughout the night only if low profile luminaries are used or motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration possible are used.
 - (4) Interior artificial lighting shall be shielded if situated such that it is visible from the beach. Window treatments shall be placed on windows or glass doors in direct line-of-site of the beach. The use of heavy draperies, window shades, tinted glass, or the careful placement of lamps and other lights shall be utilized to eliminate nighttime nesting zone illumination.
 - (5) All other lighting shall be repositioned, modified, or replaced as necessary in order to ensure that direct, indirect, or cumulative illumination of the nesting zone does not occur. The following measures will be used:
 - a. Reposition fixtures so that the point source of light or any reflective surface of the light fixture is no longer visible from the beach.
 - b. Replace fixtures having an exposed light source with fixtures containing recessed light sources or shields.
 - c. Replace traditional light bulbs with yellow “bug” type bulbs not exceeding 50 watts.

- d. Replace non-directional fixtures with directional fixtures that point down and away from the beach.
 - e. 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.
 - f. Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach.
 - g. Replace incandescent, fluorescent, and high intensity lighting with the lowest wattage low pressure sodium vapor lighting possible for the specific application.
 - h. Plant or improve vegetation buffers between the light source and the beach to screen light from the beach.
 - i. 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.
 - j. Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards.
- (e) Recreational lighting for tennis courts and other outdoor recreation shall be turned off when the court or field is not in use.
- (f) Street lights and lighting at parks and other publicly owned beach access areas shall be subject to the following:
- (1) Street lights shall be located such that the bulk of their illumination will travel downward and away from the beach. These lights shall be equipped with shields that will prevent backlighting and render them invisible from the beach.
 - (2) Lighting at parks or other public access points shall be shielded so that the light source is not visible from the beach and does not directly or indirectly illuminate the nesting zone.

Sec. 3-5-301. Design of vehicular circulation and parking areas.

Parking lots and roadways within the nesting zone, including any paved or unpaved area upon which motorized vehicles will operate, shall be designed, positioned or modified such that vehicular headlights will not directly or indirectly illuminate the beach. The beach shall be shielded from vehicular lighting through the use of hedges, dune vegetation, or other ground-level barriers, so long as these are flush with the ground, continuous and maintained to a minimum height of four feet above the surface of the parking area, do not impede or entangle sea turtles or hatchlings, and do not damage the beach or dune system.

Sec. 3-5-302. Timing of beach-dune stabilization and restoration projects.

Beach restoration and renourishment projects shall not be conducted during the nesting season unless daily surveys, and nest relocations as necessary, are provided by a permitted agent of the state.

Sec. 3-5-303. Prohibition of activities disruptive to marine turtles.

- (a) The following activities will be prohibited on the beach from sunset to sunrise during nesting season for the protection of nesting females, nests and hatchling marine turtles:
 - (1) The operation of all motorized vehicles, except emergency and law enforcement vehicles or those permitted on the beach for marine turtle conservation research, or as necessary for permitted beach restoration or renourishment activities.
 - (2) The building of campfires or bonfires or the setting off of fireworks.
 - (3) Any transient lighting which purposely and flagrantly illuminates a nesting zone, sea turtles, or hatchlings. This prohibition does not apply to individuals with appropriate permits from federal or state agencies.
- (b) All temporary structures, including but not limited to beach chairs, umbrellas, cabanas, as well as personal watercraft, boats, or other vessels and items that have the potential for entrapment of marine turtles and which may interfere with the use of the natural beach environment for nesting habitat, must be removed from the nesting zone from sunset until sunrise when not in use, or stored in areas situated to minimize interference with sea turtles.

Sec. 3-5-304. Penalties for violation; resort to other remedies.

- (a) It is unlawful for any person to violate or fail to comply with the provisions of this Article. If at any time, this Article, or other applicable law have been violated, the County may initiate a violation of the provisions of this Article before the Code Enforcement Board.
- (b) The county may take any other appropriate legal action including, but not limited to, injunctive action to enforce the provisions of this article.

Sec. 3-5-305. Management coordination.

The community development department shall be responsible for coordinating intra-and inter-governmental activities and for establishing administrative policies germane to the effective and timely implementation of the conditions set forth in this Article.

- (1) The community development department shall develop a process whereby any individual submitting a site plan or building plan for construction within the nesting zone or which are visible from the nesting zone is made aware of all instructions, requirements, and guidelines contained herein.
- (2) The community development department shall develop, in consultation with DEP, a process whereby the community development department receives a copy of all permits granted by DEP for construction seaward of the coastal construction control line.

- (3)The community development department shall develop, in consultation with law enforcement, community volunteers and others, an expeditious and structured process for enforcement.
- (4)The community development department shall develop educational pamphlets and other materials such as signage to promote awareness of marine sea turtles.
- (5)The county shall continue to support the efforts of the volunteer citizen turtle patrol in its conservation and monitoring efforts, shall encourage the development of public-private partnerships to provide funding for sea turtle awareness programs, and shall encourage the distribution of educational pamphlets and other materials to promote public awareness of sea turtles' use of the beaches during nesting season.

Secs. 3-5-306—3-5-315. Reserved.