

ORDINANCE NO. 2001-09

AN ORDINANCE OF GULF COUNTY, FLORIDA, CREATING REGULATIONS FOR THE PROTECTION OF SEA TURTLES AND OTHER ENUMERATED SPECIES WITHIN CERTAIN BEACHES OF GULF COUNTY; PROVIDING FOR THE PURPOSE AND INTENT OF SUCH ORDINANCE; PROVIDING FOR DEFINITIONS, PROHIBITED ACTIVITIES, LIGHTING STANDARDS FOR NEW CONSTRUCTION, LIGHTING STANDARDS FOR EXISTING LIGHTING, PROVIDING FOR PUBLIC AWARENESS, PROVIDING FOR ENFORCEMENT AND PENALTIES, PROVIDING AN INTERPRETATION, PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it has been determined that artificial lighting upon certain beaches of Gulf County adversely effects the nesting habits of the endangered and threatened marine turtle population and other enumerated species of Gulf County, and

WHEREAS, it is the policy of the Board of County Commissioners of Gulf County, Florida, that no enumerated artificial light source improperly illuminate the beaches of unincorporated Gulf County,

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Gulf County, Florida, as follows:

I PURPOSE AND INTENT

This Ordinance is intended to protect state and federally listed species from the adverse effects of artificial lighting and from injury or harassment caused by such lighting and its effects. These species include all animals categorized by the United States Fish and Wildlife Service (50 CFR 17) or the Florida Fish & Wildlife Conservation Commission or the Marine Turtle Protection Act (Florida Statute 370.12, Florida Administrative Code, Rules 62-01, 62-B33, 62-B55) as either endangered, threatened, or species of special concern which utilize the beach habitat of Gulf County, Florida, specifically nesting female and hatchling marine turtles, beach mice, and shorebirds.

II DEFINITIONS

- (1) "Artificial light" or "artificial lighting" means the light emanating from any device other than natural celestial light sources.
- (2) "Beach" means the zone of unconsolidated material that 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 storm waves.
- (3) "Bug" type bulb means any yellow colored light bulb that is marketed as being specifically treated in such a way so as to reduce the attraction of bugs to the light.

- (4) "Coastal construction activities" means any work or development that is likely to have a material physical effect on existing coastal conditions or natural shore and inlet processes.
- (5) "Coastal Construction Control Line (CCCL)" means the portion of the Coastal Construction Control Line established pursuant to the provisions of Section 161.053 Florida Statutes that lies within Gulf County.
- (6) "Cumulatively illuminated" means illuminated by numerous artificial light sources that as a group illuminate any portion of the beach.
- (7) "Department" means the Florida Department of Environmental Protection.
- (8) "Directly illuminated" means the source of artificial light, i.e. lamps or reflectors, is visible to an observer located beyond the frontal dune.
- (9) "Dune" means a mound or ridge of loose sediments, usually sand-sized, lying landward of the beach and deposited by any natural or artificial mechanism.
- (10) "Frontal dune" means the first natural or man-made mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.
- (11) "Ground-level barrier" means any vegetation, natural feature or artificial structure rising from the ground which prevents beachfront lighting from shining directly onto the beach-dune system.
- (12) "Gulf County Beaches" includes all beaches within Gulf County located seaward of SR30A and County Road C30B and C30E commencing at the Indian Pass public boat ramp and extending to the southern boundary of the St. Joseph Peninsula State Park and also including those boundaries lying south of Highway 98 commencing at the western boundary of the Gulf County Canal and extending to the Gulf/Bay County boundary line.
- (13) "Hatchling" means any species of marine turtle, within or outside of a nest, that has recently hatched from an egg.
- (14) "Indirectly illuminated" is the term used when the source element of an artificial light source is not visible by an observer located beyond the frontal dune, but the lumen output is.
- (15) "Listed species" includes all animals categorized by the United States Fish and Wildlife Service (50 CFR 17) or the Florida Fish & Wildlife Conservation Commission or the Marine Turtle Protection Act (Florida Statute 370-12, Florida Administrative Code, Rules 62-01, 62-B33, 62-B55) as either endangered, threatened, or species of special concern.

- (16) "Low-pressure sodium luminaries (LPS)" means an electric discharge lamp containing sodium, neon, and argon, that when illuminated appears orange in color, and under which colors are indiscernible.
- (17) "Marine turtle" means any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in Florida waters or using the beach as nesting habitat, including the species: *Caretta caretta* (loggerhead), *Chelonia mydas* (green), *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), and *Lepidochelys kempi* (Kemp's ridley). For purposes of this rule, marine turtle is synonymous with sea turtle.
- (18) "Nest" means an area where marine turtle eggs have been naturally deposited or subsequently relocated.
- (19) "Nesting season" means the period from May 1 through October 31 of each year, as defined by F.A.C. 62B 55.002(17) for all counties.
- (20) "Nighttime" means the locally effective time period between sunset and sunrise.
- (21) "Person" means individuals, firms, associations, joint ventures, partnerships, estates, trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
- (22) "Pole lighting" means a light fixture set on a base or pole which raises the source of the light higher than twenty four inches (24") off the ground.
- (23) "Shield" means a covering, canopy, or other such device fitted over and extended below an artificial light source.
- (24) "Tinted glass" means any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of 45% or less. Such transmittance is limited to the visible spectrum (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the glass.

III PROHIBITION OF ACTIVITIES DISRUPTIVE TO MARINE TURTLES AND OTHER LISTED SPECIES

The following activities involving direct illumination of the beach shall be prohibited at nighttime on Gulf County Beaches, as defined in Sec. II.12 above, from May 1 through October 31 of each year for the protection of listed species, specifically marine turtle nesting females, hatchlings, and nests:

- (1) The use of artificial lighting, including flashlights, to directly observe marine turtle nesting and hatching activities.
- (2) Any transient lighting which purposely or flagrantly illuminates nesting sea

turtles or hatchlings such that it disrupts their behavior patterns.

IV. STANDARDS FOR UTILITY LEASED LIGHTING

A. New Construction

Utility lighting will be constructed within the following guidelines:

- (1) Distances Greater Than 300 ft. From The Mean High Water Mark: Cut-off HPS Luminaries; 150 watts or less; mounting height of 25ft or less. Where direct light source is visible by observer from beyond the frontal dune, a shield will also be installed.
- (2) Distances Up to 300 ft From the Mean High Water Mark: Cut-off HPS Luminaries; 150 watts or less with amber filtered lens; mounting height of 25 ft or less. Where direct light source is visible by observer from beyond the frontal dune, a shield will also be installed.

B. Existing Lighting

Upon failure of existing fixtures, the utility will install replacement fixtures utilizing the following guidelines:

- (1) Distances Greater Than 300 ft From The Mean High Tide Mark: Cut-off HPS Luminaries; 150 watts or less; mounting height of 25 ft or less. Where direct light source is visible by observer from beyond the frontal dune a shield will also be installed.
- (2) Distance 100 ft -300 ft From The Mean High Tide Mark: Cut-off HPS Luminaries; 150 watts or less with amber filtered lens; mounting height of 25 ft or less. Where direct light source is visible by observer from beyond the frontal dune a shield will also be installed.

Upon an agreement between the FDEP, Fish & Wildlife, local county government and the utility, that an existing fixture is posing a significant threat, replacement will occur prior to failure.

V STANDARDS FOR NEW CONSTRUCTION ACTIVITIES (EXCLUDING UTILITY LEASED LIGHTING)

In order to provide the highest level of protection for nesting marine turtles, hatchlings, and other listed species, the following standards for artificial light sources on all new coastal construction within the Beaches of Gulf County as defined in Section II.12, above:

- (1) Exterior artificial light fixtures shall be designed and positioned so that:
 - (a) The point source of light or any reflective surface of the light fixture is not directly visible from the beach.

- (b) Areas seaward of the frontal dune are not directly or indirectly illuminated; and
 - (c) Areas seaward of the frontal dune are not cumulatively illuminated.
- (2) Exterior artificial light fixtures within direct line-of-sight of the beach will be permitted only if designed and installed as follows:
- (a) Completely shielded down light only fixtures or recessed fixtures having low wattage type bulbs and non-reflective interior surfaces are used. Other fixtures that have appropriate shields, louvers, or cutoff features may also be used if they are in compliance with subsection (1)(a), (b), and (c) above: 25 watts or less bug lights and
 - (b) All fixtures are mounted as low in elevation as possible through use of low-mounted wall fixtures, low bollards, and ground-level fixtures.
- (3) Floodlights, up lights or spotlights for decorative and accent purposes that are directly visible from the beach, or which indirectly or cumulatively illuminate the beach, shall not be used.
- (4) Exterior lights used expressly for safety or security purposes must comply with subsections 2(a) and (b) and shall be limited to the minimum number and configuration required to achieve their functional role(s). The use of motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration possible are required.
- (5) Only low intensity lighting shall be used in parking areas within line-of-sight of the beach. Such lighting shall be:
- (a) Set on a base which raises the source of light no higher than 45 inches off the ground; and
 - (b) Positioned or shielded so that the light is cast downward and the source of light or any reflective surface of the light fixture is not visible from the beach and does not directly or indirectly illuminate the beach.
- (6) Parking area lighting, and roadway lighting shall be shielded from the beach through the use of ground-level barriers. Ground-level barriers must not interfere with marine turtle nesting or hatchling emergence, or cause short or long term damage to the beach/dune system.
- (7) Tinted glass shall be installed on all windows and glass doors of single or multi-story structures within line-of-sight of the beach.
- (8) Use of appropriately shielded low-pressure sodium-vapor lamps and fixtures

shall be required for high-intensity lighting applications such as lighting parking areas and roadways, providing security, and similar applications.

- (9) Lights on dune walkovers are prohibited seaward of the CCCL. Lights on the walkovers landward of the CCCL shall utilize low profile shielded luminaries directed and positioned so that the point source of light or any reflective surface of the light fixture is not directly visible to a person on the beach.
- (10) Temporary lighting of construction sites during the marine turtle nesting season shall be required to abide by the standards of this section.

VI STANDARDS FOR EXISTING LIGHTING (EXCLUDING UTILITY LEASED LIGHTING)

In order to provide the highest level of protection for nesting marine turtles, hatchlings, and other listed species, the following standards for all existing artificial light sources, with the Gulf County Beaches as defined within Section II.12 above shall be brought into compliance by April 1, 2002.

- (1) Existing artificial light fixtures shall be repositioned, modified, disconnected, or removed so that:
 - (a) The point source of light or any reflective surface of the light fixture is not directly visible from the beach.
 - (b) Areas seaward of the frontal dune are not directly or indirectly illuminated; and
 - (c) Areas seaward of the frontal dune are not cumulatively illuminated.
- (2) Existing artificial light fixtures that are replaced for any reason shall comply with Section IV, Standards for New Construction Activities and the following measures taken:
 - (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 non-directional fixtures with directional fixtures that point down and away from the beach;
 - (d) 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;

- (e) Replace incandescent, fluorescent, and high intensity lighting with the lowest wattage low-pressure sodium-vapor lighting possible for the specific application;
 - (f) Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;
- (3) The following measures shall be taken as applicable to reduce or eliminate the negative effects of interior light emanating from doors and windows within line-of-sight of the beach:
- (a) Apply window tint or film that meets the standards for tinted glass;
 - (b) Rearrange lamps and other moveable fixtures away from windows;
 - (c) Use window treatments (e.g., blinds, curtains) to shield interior lights from the beach; and
 - (d) Turn off unnecessary lights.
- (4) Any and all lighting which fails to meet the requirements of Section VI as to standard for existing lighting shall be subject to termination of lighting pending full compliance.

VII PUBLIC AWARENESS

Any person submitting an application for coastal construction activities within the jurisdictional boundaries of Gulf County shall be informed of the existence of and the requirements concerning artificial lighting and marine turtle protection by the Gulf County Planning and Building Department.

VIII ENFORCEMENT AND PENALTIES

Upon notification, the Gulf County Code Enforcement Officer shall give notice to any person who violates this Ordinance by a certified letter/return receipt requested to the property owner's address listed at the Gulf County Tax Collector's Office for the location of the offending light. Such notice shall be provided within twenty-four (24) hours of the report of the disorientation event, or within forty-eight (48) hours of the report of the disorientation event if reported on the weekend. Additionally, in the event that the Code Enforcement Officer ascertains that the offending property is under the care of a rental (realty) agency or property manager, then and in that event, the Code Enforcement Officer shall provide to such rental agency a Notice of Violation letter within forty-eight (48) hours of the disorientation event. Further, in the event that the Code Enforcement Officer ascertains that the offending property is occupied, then and in that event, a copy of the Notice of Violation shall be provided to an occupant at the location of the offending light within twenty-four (24) hours of the report of the disorientation event, or within forty-eight (48) hours of the report of the disorientation event if reported on the weekend. Such letters shall describe the violation and shall enclose a brochure provided by the Department of Environmental Protection and a copy of this

Ordinance. Failure to correct any noticed violation within seven (7) days of the date of notice of such violation shall be punishable in the same manner as a misdemeanor punishable as provided by Section 125.69, Florida Statutes (2001). Each day of any such violation shall constitute a separate and distinct offense. The Florida Department of Environmental Protection, Gulf County Sheriff's Department, Florida Fish & Wildlife Conservation Commission, and Gulf County Code Enforcement officers shall have authority to enforce the Ordinance. Any person may exercise their right to report any and all violations of this Ordinance to the proper enforcement authorities. In addition to any other remedy herein set forth or otherwise provided by law, the County may restrain any violation of this Ordinance by suit in a court or administrative body of competent jurisdiction.

IX INTERPRETATION

The provisions of this Ordinance shall be liberally construed in order to effectively carry out its purpose. Where any provision of this Ordinance refers to or incorporates another provision, ordinance, statute, rule, regulation, policy, official publication, or other authority, it refers to the most current version, incorporating any amendments thereto or re-designation thereof.

X SEVERABILITY

If any section, subsection, sentence, clause or provision of this Ordinance is held invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

XI EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption.

Duly adopted by the Board of County Commissioners of Gulf County, Florida, this 11th day of September, 2001.

BOARD OF COUNTY COMMISSIONERS
GULF COUNTY, FLORIDA

By: Nathan Peters, Jr.
Nathan Peters, Jr. Chairman

ATTEST:

By: Douglas Birmingham
Douglas Birmingham, Clerk