

ORDINANCE NO. 26-XX

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA AMENDING THE CITY OF MARCO ISLAND CODE OF ORDINANCES BY AMENDING CHAPTER 54, "WATERWAYS AND BEACHES," ARTICLE V, "SEA TURTLE PROTECTION"; BY AMENDING SECTION 54-143 "DEFINITIONS" TO INCLUDE FISHING AS A SPECIAL EVENT; AMENDING SECTION 54-151 TO PROVIDE REGULATIONS REQUIRING A SPECIAL PERMIT FOR 10 OR MORE PEOPLE THAT GATHER ON THE BEACH AT NIGHT; PROHIBITING ANYONE FISHING ON THE BEACH AT NIGHT BETWEEN 9:00 PM AND 9:00 AM DURING SEA TURTLE SEASON TO PROTECT SEA TURTLES AND THEIR NESTING HABITATS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Article VIII of the State Constitution and Chapter 166, Florida Statutes, provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, the Marco Island Sea Turtle Protection Ordinance was adopted to protect sea turtle during nesting season (May 1<sup>st</sup> through October 31<sup>st</sup>) which is critical for their survival. According to Florida Fish & Wildlife Conservation Commission, only 1 in 1000 hatchlings survive to adulthood; and

**WHEREAS**, the City Council, to further protect sea turtles finds that it is necessary and appropriate to adopt new requirements to minimize large gatherings a night during sea turtle season in the sea turtle lighting district; and

**WHEREAS**, the City Council finds that this Ordinance serves a municipal and public purpose, and is in the best interest of the health, safety, and welfare of the citizens and residents of the City of Marco Island.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND:**

**Section 1. Recitals.**

The foregoing "WHEREAS" clauses are true and correct and reflective of the legislative intent underlying this Ordinance and are hereby ratified and made a specific part of this Ordinance.

36           **Section 2. Amendment and Adoption.** That Chapter 54, “Waterways and  
37 Beaches,” Article V, “Sea Turtle Protection,” Section 54-143, “Definitions” of the City of  
38 Marco Island Code of Ordinances be, and the same is hereby amended to read as follows:

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40   **Chapter 54**

41   **ARTICLE V. - SEA TURTLE PROTECTION**

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43           **Sec. 54-143. - Definitions.**

44           The following words, terms and phrases, when used in this article, shall have  
45 the meanings ascribed to them in this section, except where the context clearly  
46 indicates a different meaning:

47           *Artificial Light* means the light emanating from any human-made device.

48           *Beach* means the sand portion of land lying seaward of a seawall or line of  
49 permanent vegetation and landward of the mean high-water line.

50           *Development* means the carrying out of any building activity, the making of any  
51 material change in the use or appearance of any structure of land. For the  
52 purposes of this article, this would include any construction, change, or  
53 improvements regarding artificial lighting, windows, and windowed doors.

54           *Directly Visible* means visibility of the glowing elements, lamps, globes, or  
55 reflectors of an artificial light source by an observer standing anywhere on the  
56 beach.

57           *Disorientation* means an event caused by direct or indirect artificial lighting on sea  
58 turtle nesting habitat resulting in the disruption in the ability of nesting sea turtle  
59 females and sea turtle hatchlings to find the sea from the beach.

60           *False Crawl* means Sea turtles leave the security of the ocean and crawl up onto  
61 Florida beaches at night during the summer to dig a hole and lay their eggs.  
62 Sometimes they crawl back to the water without digging a nest and without laying  
63 eggs. This is called a “false crawl.”

64           *Foot Candle* means the English unit for measuring illuminance; the uniform  
65 illumination of a surface one foot away from a point source of one candela; one  
66 lumen per square foot; equal to 10.76 lux.

67 *Frontal Dune* means the first natural or man-made mound or bluff of sand which is  
68 located landward of the beach, and which has sufficient vegetation, height,  
69 continuity, and configuration to offer protective value.

70 *Full Cutoff* means a lighting fixture constructed in such a manner that no light  
71 emitted by the fixture, either directly from the lamp or a diffusing element or  
72 indirectly by reflection or refraction from any part of the luminaire, is projected at  
73 or above 90° as determined by photometric test or certified by the manufacturer.

74 *Fully Shielded* means a lighting fixture constructed in such a manner that the  
75 glowing elements, lamps, globes, or reflectors of the fixture are completely covered  
76 by an opaque material to prevent them from being directly visible from the beach.  
77 Any structural part of the light fixture providing this shielding must be permanently  
78 affixed.

79 *Handheld Devices* include any portable device that can be carried and held in one's  
80 palm. A handheld can be any computing or electronic device that is compact and  
81 portable enough to be held and used in one or both hands. A handheld may contain  
82 cellular communication, but this category can also include other computing  
83 devices.

84 *Harass* means an intentional or negligent act or omission which creates the  
85 likelihood or injury to wildlife by annoying it to such an extent as to significantly  
86 disrupt normal behavioral patterns which include, but are not limited to, nesting,  
87 breeding, feeding, or sheltering.

88 *Hatchling* means any species of marine turtle, within or outside of a nest, which  
89 has recently hatched from an egg.

90 *Indirectly Visible* means visibility of reflected light as a result of glowing elements,  
91 lamps, globes, or reflectors of an artificial light source which is visible to an  
92 observer standing anywhere on the beach without the light source being directly  
93 visible.

94 *Irreparable or irreversible event* means an irreversible action leading to a false  
95 crawl, disorientation, injury, or death of a sea turtle or their young. This also  
96 includes but is not limited to any irreversible harm or damage to the nest.

97  
98 *Lighting Plan* means plan view and cross section drawings describing location,  
99 number, wattage, wavelength, elevation, orientation, fixture cut sheets, and all  
100 types of proposed exterior artificial light sources, including, but not limited to,  
101 artificial lighting affixed to permanent structures, outdoor lighting, pool lighting, and  
102 internally or externally lighted signs.

103 *Long Wavelength* means a luminaire emitting light wavelengths of 560  
104 nanometers or greater and absent wavelengths below 560 nanometers. Lamps  
105 that meet the definition of Long Wavelength using filters, gels, or lenses are not  
106 permitted.

107  
108 *Nest* means an area where marine turtle eggs have been naturally deposited or  
109 subsequently relocated.

110 *Nesting Season* means the nesting period for sea turtles is from May 1st through  
111 October 31st of each year. Nesting season may be extended before or after these  
112 dates on an annual basis based on nesting activity observed in the City of Marco  
113 Island.

114 *New Development* includes new construction or remodeling of existing structures  
115 when such remodeling includes alteration of exterior lighting and/or replacement  
116 of all glass or glazing.

117 *Nighttime* means the locally effective time between 9 pm and 6 am.

118 *Non-egress Lighting* means lighting that is not being used to light a distinct path or  
119 meet minimum requirements for emergency egress, including but not limited to  
120 decorative lights (e.g., Christmas lights, strobe lights, string lights, etc.), balcony  
121 lights, ceiling fan lights, landscape lights, and up lights.

122 *Outdoor Area* means any portion of a property that could have an artificial light  
123 source not attached to a permanent structure, including but not limited to pathway  
124 lighting, landscape lighting, pool lighting, etc.

125 *Person* means any individual, firm, association, joint venture, partnership, estate,  
126 trust, syndicate, fiduciary, corporation, group, or unit or federal, state, county, or  
127 municipal government.

128 *Sea Turtle* means any turtle, including all life stages from egg to adult, of these  
129 species: Green (*Chelonia mydas*), Leatherback (*Dermochelys coriacea*),  
130 Loggerhead (*Caretta caretta*), Hawksbill (*Eretmochelys imbricata*), and Kemp's  
131 Ridley (*Lepidochelys kemp*). For the purposes of this ordinance, the term sea  
132 turtle is synonymous with marine turtle.

133 *Sea Turtle Nesting Habitat* means all sandy beaches adjoining the waters of the  
134 Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida in all coastal counties  
135 and all inlet shorelines of those beaches. Nesting habitat includes all sandy beach  
136 and unvegetated or vegetated dunes immediately adjacent to the sandy beach and  
137 accessible to nesting female turtles.



173 and conservation, shall be prohibited on the beach from 9 pm. to 8 am.  
174 during sea turtle nesting season.

175 (c) Beach raking activities during sea turtle nesting season, if permitted by  
176 the City of Marco Island, shall not:

177 a. Operate after 9 pm.

178  
179 b. Begin before 8:00 am. or before the completion of daily monitoring  
180 for turtle nesting activity by the Florida Fish and Wildlife Conservation  
181 Commission (FWC) authorized marine turtle permit holder,  
182 whichever occurs first.

183  
184 c. Occur within twenty-five (25) feet of any marked sea turtle nest.

185  
186 a. During sea turtle nesting season, temporary work zone lighting for  
187 roadway construction and during declared emergencies shall be  
188 directed away from the beach to avoid illumination of or direct visibility  
189 from the beach. Work zone luminaires shall be shielded to avoid lighting  
190 areas outside of the immediate construction area.

191 b. All other temporary construction lighting shall be:

192 (1) Inclusive of all the standards herein, including utilizing fixtures that  
193 are long wavelength, downward directed, full cutoff, and fully shielded  
194 so light is not directly or indirectly visible from the beach; and

195 (2) Turned off from 9:00 p.m. to 6:00 a.m. in sea turtle nesting season,  
196 or if temporary lighting is deemed necessary during sea turtle nesting  
197 season it shall only be allowed from 6:00 a.m. to 9:00 p.m., must be  
198 restricted to the minimal amount necessary, and shall incorporate all the  
199 standards herein; and

200 (3) Mounted less than eight feet above the adjacent floor or deck,  
201 measured from the bottom of fixture, and

202 (4) Restricted to the minimal number of foot-candles necessary to  
203 conform to the applicable construction safety regulations.

204 c. Man-made moveable objects shall not obstruct sea turtle nesting habitat  
205 during nesting season during nighttime. All obstructions, including but  
206 not limited to beach furniture, cabanas, umbrellas, tents, personal  
207 watercraft, bikes, vehicles, and boats, shall be removed from the sea

208 turtle nesting habitat, and shall be removed between 9:00 p.m. and 8:00  
209 a.m., or prior to the completion of daily monitoring for sea turtle nesting  
210 activity by the FWC authorized marine turtle permit holder, whichever  
211 comes first.

212 d. During sea turtle nesting season, beach vendors with a valid beach  
213 vendor permit are authorized to store registered equipment and vehicles  
214 at or adjacent to the beach vendor operations office or storage area,  
215 which shall be located at the dune vegetation line or at another  
216 acceptable location.

217 e. No beach furniture or other man-made object shall be placed within  
218 twenty-five (25) feet of a marked sea turtle nest.

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220 **Section 4. Codification.**

221 It is the intention of the City Council, and it is hereby ordained, that the  
222 amendments to the City of Marco Island Code of Ordinances made by this  
223 Ordinance shall constitute new provisions within the Code of Ordinances, and that  
224 the sections of this Ordinance may be renumbered and re-lettered as necessary,  
225 and that the word "Ordinance" may be changed to "Section", "Article" or other  
226 appropriate word.

227 **Section 5. Conflicts.**

228 All ordinances or parts of ordinances and all resolutions or parts of resolutions in  
229 conflict with the provisions of this Ordinance are hereby superseded and resolved  
230 to the extent of any conflict in favor of the provisions of this Ordinance.

231 **Section 6. Severability/Interpretation.**

232 (a) If any term, section, clause, sentence or phrase of this Ordinance is for any  
233 reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction,  
234 the holding shall not affect the validity of the other or remaining terms, sections, clauses,  
235 sentences or phrases portions of this Ordinance, and this Ordinance shall be read and  
236 applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence or  
237 section did not exist.

238 (b) In interpreting this Ordinance, underlined words indicate additions to  
239 existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks  
240 (\*\*\*\*) indicate a deletion from the Ordinance text, which continues to exist in the Code of  
241 Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks

242 and not set forth in this Ordinance shall remain unchanged from the language existing  
243 prior to adoption of this Ordinance.

244 **Section 7. Effective Date.**

245 This Ordinance shall become effective upon its adoption by the City Council on  
246 second reading.

247 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this  
248 \_\_\_\_ day of \_\_\_\_\_, 2026.

249 **Attest:** **CITY OF MARCO ISLAND**

252 By: \_\_\_\_\_ By: \_\_\_\_\_  
253 Joan Taylor, City Clerk Darrin Palumbo, Chair

254 Approved as to form and legal sufficiency:

256 By: \_\_\_\_\_  
257 Alan L. Gabriel, City Attorney

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