

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:

39

40 **Chapter 54**

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

42

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.

138 *Special Event* is an event such as a beach activity, fishing, sports, religious, and
139 community event, or other similar events that requires preparation, planning, and
140 municipal resources, and may require public area or roadway closures, and often
141 a city Permit.

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143 **Section 3. Amendment and Adoption.** That Chapter 54, “Waterways and
144 Beaches,” Article V, “Sea Turtle Protection,” Section 54-151, “Special Events, Vehicles,
145 Raking, Temporary Lighting, and Beach Furniture” of the City of Marco Island Code of
146 Ordinances be, and the same is hereby amended to read as follows:

147 Sec. 54-151 Special Events, Vehicles, Raking, Temporary Lighting, Fishing and
148 Beach Furniture

149 (a) All special events or development taking place on or adjacent to the
150 beach requires a permit from the City of Marco Island in addition to any
151 required permit from the Florida Department of Environmental
152 Protection. Lighting associated with any special events at night shall be
153 turned off at 9:00 p.m. during turtle nesting season.

154 Exception: Through a Special Event Exception permit, event may go till
155 10 pm. on the condition that the event is monitored by any person who
156 can provide credentials or proof of having received training on sea turtle
157 lighting. All lighting, including vehicles on the beach, must meet sea
158 turtle friendly lighting standards.

159 (1) During sea turtle nesting season, special events of more than 10
160 people at night on the beach are restricted to protect nesting sea
161 turtles and their hatchlings and will require special permit from the
162 City of Marco Island and such event shall conclude by 9:00 p.m.

163 (2) Fishing at night on the beach during sea turtle season shall be
164 prohibited between 9:00 p.m. and before 9:00 a.m. or prior to the
165 completion of daily monitoring for sea turtle nesting activity by the
166 FWC authorized marine turtle permit holder, which ever comes first.

167 (3) Such restrictions shall be posted through signage at access points,
168 on the City’s websites and through public education media postings.

169 (b) The operation of all vehicles, except emergency, law enforcement, code
170 enforcement, or community service officer vehicles or those permitted
171 on the beach for sea turtle conservation in accordance with Section
172 379.2431(1), Florida Statutes, as may be amended, or other research

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.

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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.

