

CITY OF MARCO ISLAND

ORDINANCE 01- 35

SEA TURTLE PROTECTION

AN ORDINANCE TO ESTABLISH NEW SEA TURTLE PROTECTION STANDARDS AND REGULATIONS TO SUPERCEDE, SUPPLEMENT, AND/OR REPLACE STANDARDS AND REGULATIONS FOUND IN THE COLLIER COUNTY LAND DEVELOPMENT CODE (ORDINANCE 91-102, AS AMENDED), AND CURRENTLY APPLICABLE TO SEA TURTLE PROTECTION ON MARCO ISLAND; ESTABLISHING PURPOSE AND INTENT; PROVIDING FOR APPLICABILITY; PROVIDING FOR NEW DEVELOPMENT; PROVIDING FOR EXISTING DEVELOPMENT; PROVIDING FOR PUBLICLY OWNED LIGHTING; ESTABLISHING IT TO BE UNLAWFUL TO KILL, MOLEST, OR INJURE SEA TURTLES, PROVIDING FOR CONSTRUCTION DURING NESTING SEASON; PROVIDING FOR PENALTIES FOR VIOLATION; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the 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, state law requires municipalities to adopt Land Development Regulations within one year of Comprehensive Plan adoption; and

WHEREAS, the Marco Island Planning Board, as the Local Planning Agency, has conducted all required public hearings related to this ordinance, and has forwarded this ordinance to City Council with a recommendation of approval.

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

SECTION ONE: PURPOSE AND INTENT

The purpose of this ordinance is to enhance the protection of threatened and endangered sea turtles that nest along the beaches of Marco Island by safeguarding sea turtles from sources of artificial light, and prohibiting the injury or harassment of adult sea turtles, hatchlings, nests and eggs. The city will work in concert with applicable county, state and federal guidelines for the protection of sea turtles.

SECTION TWO: APPLICABILITY

For the purposes of this ordinance, the beaches of Marco Island shall be designated as those sandy areas facing the Gulf of Mexico, including Coconut Island, and the inlet shorelines commencing at Caxambas Pass to the south and end on Hideaway Beach to the north at Collier Creek.

SECTION THREE: NEW DEVELOPMENT

Lighting associated with any construction or development activity that is within 300 feet of the line of mean high water, or if there are any light sources or any reflective surfaces illuminated by such sources that will be visible from the beach, such lighting shall be in compliance with Ordinance 99-7 and the following:

1. Outdoor lighting shall be the minimum necessary for security and safety. Floodlights and landscape or accent lighting shall be prohibited.
2. All lighting including wall-mounted fixtures, pole lighting, lights on balconies, and any other type of lighting not specifically referenced by this section, shall be of low intensity and shall be fitted with hoods or positioned so that the light sources or any reflective surface illuminated by such sources are not visible from the beach.
3. Low profile luminaries shall be used in parking lots and such lighting shall be fitted with hoods or positioned so that the light sources or any reflective surfaces illuminated by such sources do not create shadows on the beach.
4. Dune crosswalks shall utilize low profile shielded luminaries directed and positioned so that light sources or any reflective surfaces illuminated by such sources are not visible from the beach. Dune crossover lighting shall be limited to the area landward of the primary dune.

5. Windows that are visible from the beach shall be tinted or glazed to achieve an industry approved light transmittance value of 45 percent or less. Such transmittance shall be limited to the visible spectrum (400 to 700 nanometers) and shall be measured as the percentage of light that is transmitted through the glass, inside to outside.
6. Temporary security lights at construction sites shall not be mounted more than 15 feet above the ground. Light sources or any reflective surfaces illuminated by such sources shall not be visible from the beach.

SECTION FOUR: EXISTING DEVELOPMENT

For existing development permitted prior to January 1, 1994, those existing structures with any light sources or reflective surfaces illuminated by such sources that are visible from the beach, shall be in compliance with Ordinance 99-7, and the following:

1. All exterior lights shall be turned off after 9:00 p.m. between May 1 and October 31, of each year, or fitted with a hood or positioned so that the light sources or any reflective surfaces illuminated by such sources are not be visible from the beach.
2. Lights illuminating dune crosswalks shall be turned off after 9:00 p.m. between May 1 and October 31, of each year, and must be modified to conform to the requirements for new development in accordance with this ordinance.
3. When high intensity lighting is required for security or emergency exit lighting, then low-pressure sodium vapor luminaries shall be used and fitted with a hood or positioned so that the light sources or any reflective surfaces illuminated by such sources are not be visible for the beach. Required lighting shall be consistent with provisions in the Fire Prevention and Protection Ordinance, 98-08, as amended.

To reduce or eliminate the negative effects of interior light emanating from doors or windows within line of sight of the beach, one of the following actions shall be taken during sea turtle nesting season:

- a) Windows shall be tinted or glazed to achieve an industry approved light transmittance value of 45 percent or less; or
- b) Window treatments such as blinds or curtains shall be used to prevent interior light from emanating outside; or

- c) Lighting sources such as lamps shall be relocated away from windows, and turned off after 9:00 p.m.

SECTION FIVE: PUBLICLY OWNED LIGHTING

Publicly owned lighting with light sources that are visible from the beach or that illuminate reflective surfaces that are visible from the beach, should be fitted with a hood or re-positioned to minimize or eliminate any adverse effects.

SECTION SIX: UNLAWFUL TO KILL, MOLEST, OR INJURE SEA TURTLES

1. It shall be unlawful for any person to kill, molest, or cause direct or indirect injury to any species of sea turtle, their nests, and/or eggs in the City of Marco Island or within its jurisdictional waters. It shall be unlawful to collect or possess any part of a sea turtle or eggs.
2. It shall be unlawful to relocate or possess a sea turtle or eggs without first obtaining a permit from the Florida Department of Environmental Protection.

SECTION SEVEN: CONSTRUCTION DURING NESTING SEASON

It shall be unlawful to construct any structure, add any fill, mechanically clean any beach, or grade any dirt within 100 feet of the nesting zone of a beach where sea turtles nest or may nest during the nesting season. Construction activities shall not interfere with sea turtle nesting, shall preserve or replace any native vegetation on the site, and shall maintain the natural existing beach profile and minimize interference with the natural beach dynamics and function.

SECTION EIGHT: VIOLATIONS

Violation of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person or firm who violates this division or fails to comply with any of its requirements shall upon conviction thereof be fined, or imprisoned, or both, as provide by law. Each day such violation continues shall be considered a separate offense. Additionally, each sea turtle or eggs that are killed injured, or molested shall constitute a separate violation. Any other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

The City, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to injunctive action, to enforce the provisions of this division.

SECTION NINE: INCORPORATION, CONFLICT AND SEVERABILITY

- [A] It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Marco Island, Florida, and that the sections of this Ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article" or other appropriate word.
- [B] All sections or parts of sections of the Code of Laws and Ordinances of Collier County, Florida, all Collier County ordinances or parts of ordinances, and all Collier County resolutions or parts of resolutions made applicable by the City Charter in conflict herewith are hereby repealed to the extent of such conflict.
- [C] If any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid by any court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.


SECTION TEN: EFFECTIVE DATE

This Ordinance shall take effect immediately upon adoption by the Marco Island City Council.

Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida this 5th day of November, 2001.

Attest:
FLORIDA

CITY OF MARCO ISLAND,

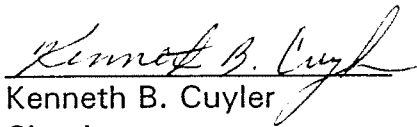


A. William Moss
City Manager/City Clerk



E. Glenn Tucker, Chairman

Approved as to form and
Legal sufficiency:


Kenneth B. Cuyler
City Attorney