



**CITY OF DANIA BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

DATE: September 27, 2011

TO: Robert Baldwin, City Manager

FROM: Robert Daniels, Community Development Director

REQUEST: **Text Amendment – Lighting Requirements for Marine Turtle Protection (2nd Reading)**

Staff has prepared an ordinance amending Chapter 5 of the City Code entitled "Animals and Fowl" to provide for protection for marine turtles. Specifically, this proposed text change would clarify the definitions regarding the City Engineer's determination of the area that is regarded as beach. The proposed text change would also create a new section 5-1.8 entitled "Lighting Requirements for Marine Turtle Protection", the purpose of which is to reduce light impacts on the nesting and hatching of sea turtles. Lighting for parking facilities are required to be designed to reflect light away from any contiguous residentially zoned property and no lighting would be allowed that would directly illuminate the beach from sunset to sunup during the sea turtle nesting period from March 1 through October 31 of each year. City property would not be exempt from this requirement.

All site plans for new development or redevelopment along the beach would be required to identify specific measures for control of lighting. Existing development along the beach would be required to implement measures not involving capital expenditures immediately. These would include turning off exterior lights that illuminate the beach and closing draperies. A reasonable date for all tenants to implement all appropriate measures to fully comply with the new requirement will be established.

This proposed ordinance is consistent with and implements Section 161.163, Florida Statutes, "Coastal areas used by sea turtles; rules", and with the City's Comprehensive Plan Objective IV "Conserve native vegetative habitats and marine habitats at their present levels" and Policy.9, "Development orders and permits for development and redevelopment activities shall be issued only if the conservation of wildlife and natural systems is ensured consistent with goals, objectives, and policies of this Comprehensive Plan."

CITY COMMISSION PREVIOUS ACTION

On September 13, 2011, the City Commission approved the request on first reading.

STAFF RECOMMENDATION

Approval

MEMORANDUM

TO: City Commission

CC: Robert Baldwin, City Manager
Colin Donnelly, Assistant City Manager
Dominic Orlando, Director of Public Services
Kristen Jones, Director of Parks and Recreation
Bob Daniels, Director of Community Development
Corinne Lajoie, Principal City Planner
Kristin Dion, Planner
Nicholas Lupo, Code Enforcement Manager

FROM: Thomas J. Ansbro, City Attorney

DATE: September 2, 2011

RE: Ordinance Establishing Beach Lighting Restrictions;
Marine Turtle Protection Requirements

Attached is an Ordinance which would create Section 5-13 (“Definitions”) and Section 18 (“Lighting Requirements for Marine Turtle Protection”) of Chapter 5 (“Animals and Fowl”) of the City Code of Ordinances.

Other Broward County coastal municipalities have adopted similar regulations to protect sea turtles during the nesting season. Unlike those other cities, there is no “private property” in our City beach area. However, Broward County officials have requested that the City enact turtle protection requirements and, in practical effect, they will apply to all City tenants (FAU, Beach Grille, Pier Restaurant tenant) and the City facilities (the marina as well as the Pier).

City Commission approval is requested.

ORDINANCE NO. 2011-029

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, PROVIDING FOR THE PROTECTION OF SEA TURTLES ON THE BEACHES WITHIN THE JURISDICTIONAL BOUNDARIES OF THE CITY OF DANIA BEACH BY AMENDING SECTION 5-1.3, ENTITLED "DEFINITIONS" AND BY CREATING SECTION 18, ENTITLED "LIGHTING REQUIREMENTS FOR MARINE TURTLE PROTECTION" OF CHAPTER 5, ENTITLED "ANIMALS AND FOWL" OF THE CITY CODE OF ORDINANCES, PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Dania Beach, Florida has an oceanfront beach which serves as a prime nesting habitat for sea turtles; and

WHEREAS, the sea turtle has been identified as a threatened and endangered species and its hatchlings are threatened at least, in part, due to the artificial light from beachfront structures; and

WHEREAS, protection of the marine turtle nesting habitat, nesting females and hatchlings may be greatly enhanced through the regulation of beaches and coastal activities in a manner consistent with prudent conservation strategies, such as those provided for in this ordinance; and

WHEREAS, the City desires to implement conservation regulations in conformity with 161.163, Florida Statutes, and Chapter 62B-55 of the Florida Administrative Code;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA:

Section 1. The foregoing "Whereas" clauses are ratified and confirmed as being true and correct and they are incorporated into this ordinance by this reference.

Section 2. That Section 5-1.3, entitled "Definitions" of Chapter 5, entitled "Animals and Fowl" of the City Code of Ordinances is amended to read as follows:

Sec. 5-1.3. Definitions.

Beach. That area of unconsolidated material that extends landward from the mean low-water line of the Atlantic Ocean to the place where there is a marked change in material or

physiographic form, or to the line of permanent vegetation.

. . .

Directly Illuminated. Illuminated as a result of glowing elements, lamps, globes, or reflectors of an artificial light source, which is visible to an observer on the beach.

Directly Visible. The glowing element (s), lamp (s), globe (s), or reflector (s) of an artificial light source, which is visible to an observer standing anywhere on the beach.

. . .

Indirectly Visible. Illuminated as a result of the glowing element(s), lamp(s), globe(s), or reflector(s) of an artificial light source which is not directly visible to an observer standing anywhere on the beach including light reflected off a structure.

. . .

Nest. An area where marine turtle eggs have been naturally deposited or subsequently relocated.

. . .

Nesting Season. The period from March 1st through October 31st of each year.

. . .

New Development. New construction and remodeling of existing structures when such remodeling includes alteration of exterior lighting or results in new exposure of existing lighting to the beach.

. . .

Sea Turtle. Any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in Florida waters or any marine-dwelling reptile using the beach as a nesting habitat, including the following species: *Caretta caretta* (loggerhead), *Chelonia mydas* (green), *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill) and *Lepidochelys kempfi* (Kemp’s ridley). For purposes of this section, marine turtle is synonymous with sea turtle.

. . .

Section 3. That Section 5-18, entitled “Lighting Requirements for Marine Turtle Protection” of Chapter 5, entitled “Animals and Fowl” of the City Code of Ordinances is created to read as follows:

Sec. 5-18. Lighting Requirements for Marine Turtle Protection.

(a) Purpose and Intent. The purpose of this section is to reduce impacts of coastal lighting on the nesting and hatching of threatened and endangered sea turtles through restrictions, constraints and requirements to preserve and protect sea turtles and sea turtle habitat. The provisions of this section shall be effective within the jurisdictional boundaries of the City, and shall apply to any coastal lighting activity that has the potential to adversely impact sea turtles within the City limits.

(b) Where lighting facilities are provided for parking areas, they shall be designed and installed so as to reflect the light away from any contiguous residential zoned property. No lighting shall be installed, maintained or illuminated on public or private property that would be directly or indirectly visible from or illuminate the beach from sunset to sunup during the sea turtle nesting season from March 1 through October 31 of each year. The City, tenants of City property along the beach, utility companies, and any other entity that provides lighting in, on or near the Beach area are each responsible for ensuring that their own lighting is controlled so as not to be directly or indirectly visible from or illuminate the beach from sunset to sunup during this season.

(c) Measures to be employed by the City, its tenants, utility companies, and any other entities as provided above, for the installation, maintenance and control of all lighting in a direct line of sight of the beach, including interior lights visible from the beach through windows, shall be consistent with the standards and guidelines contained in Chapter 62B-55 of the Florida Administrative Code and in Technical Report 97-06 of the Broward County Beach Lighting Management Plan, as amended from time to time. All site plans for new development and redevelopment along the beach shall be required to demonstrate that the proposed development or redevelopment will comply with this Section by identifying the specific measures that will be employed to control lighting.

(d) For existing development along the beach, the City, its tenants, utility companies and affected entities shall be required to immediately implement measures not involving any capital expenditures, such as switching-off exterior lights that are directly or indirectly visible from or illuminate the beach and closing existing draperies to shield interior lights during the turtle nesting season. Appropriate measures necessary to fully comply with this Section on or before April 1, 2012 must be observed by the City, its tenants, utility companies, and all affected entities.

(e) The provisions contained in this section shall not apply where the Florida Department of Environmental Protection or other state department with the appropriate authority has approved alternative lighting standards which are in conflict with the provisions contained in this section. Such approval shall be in writing, detailing the standards which were approved, and recorded with the City's Beach Zoning Division.

Section 4. Enforcement. Any person found to be in violation of this Code Section shall be issued a Notice to Appear and shall appear at the prearranged Court date to answer the charge. A conviction for violation of this Section shall result in a fine up to five hundred dollars (\$500.00) or imprisonment for a term not exceeding ninety (90) days, or by both such fine and imprisonment at the discretion of the judge.

Section 5. That if any section, clause, sentence or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. That all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed.

Section 7. That this Ordinance shall take effect immediately at the time of its passage.

PASSED on first reading on September 13, 2011.

PASSED AND ADOPTED on second reading on _____, 2011.

ATTEST:

LOUISE STILSON, CMC
CITY CLERK

PATRICIA A. FLURY
MAYOR

APPROVED AS TO FORM AND CORRECTNESS:

THOMAS J. ANSBRO
CITY ATTORNEY