ORDINANCE NO. 97-082

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, RELATING TO THE PROTECTION OF MARINE TURTLES; PROVIDING FINDINGS; PROVIDING TITLE AND CITATION, PURPOSE; PROVIDING JURISDICTION; PROVIDING DEFINITIONS; PROVIDING LIGHTING STANDARDS FOR NEW DEVELOPMENT; PROVIDING LIGHTING STANDARDS FOR EXISTING DEVELOPMENT; PROVIDING STANDARDS FOR PUBLICLY OWNED LIGHTING; PROVIDING PROHIBITED ACTIVITIES DISRUPTIVE TO MARINE TURTLES; PROVIDING STANDARDS FOR CONSTRUCTION DURING THE MARINE TURTLE NESTING SEASON; PROVIDING THAT IT IS UNLAWFUL TO KILL MOLEST OR INJURE MARINE TURTLES; PROVIDING EDUCATION AND INFORMATION OPTIONS; PROVIDING ENFORCEMENT PROVISIONS INCLUDING CIVIL AND ADMINISTRATIVE ENFORCEMENT POWERS AND CRIMINAL PENALTIES REGARDING MARINE TURTLES AND HATCHLINGS IN SARASOTA COUNTY, FLORIDA; PROVIDING APPLICABILITY, PROVIDING INTERPRETATION, PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the beaches of Sarasota County along the Gulf of Mexico serve as a primary nesting habitat for Caretta caretta, the loggerhead turtle and nesting habitat for Chelonia mydas, the green turtle;

WHEREAS, the above are listed as threatened and endangered species respectively and are protected by the United States Government under the Endangered Species Act of 1973 and by Section 161 Florida Statutes;

WHEREAS, it has been determined that the survival of marine turtle hatchlings and the nesting of adult females is threatened due to artificial light associated with coastal development which interferes with the migration of hatchlings to the Gulf waters and deters adult females from nesting;

WHEREAS, the Florida Department of Environmental Protection (FDEP), pursuant to Section 161.163, Florida Statutes, has adopted by rule, guidelines for local government regulation that control beachfront lighting to protect marine turtles;

WHEREAS, The Environmental Chapter of Apoxsee: The Revised and Updated Sarasota County Comprehensive Plan Policy 5.4.4 provides that, "Special measures shall be taken to protect the threatened loggerhead sea turtle," including the enactment of a lighting ordinance to protect sea turtles.

WHEREAS, it is the desire of residents and the Government of Sarasota County to afford marine turtles that nest on Sarasota County beaches protection to ensure the survivability of these species.
NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY
COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

Section 1. Title and Citation. This ordinance shall be known and may be cited as the "Sarasota County Sea Turtle Protection Ordinance."

Section 2. Purpose. The purpose of this Ordinance is to protect threatened and endangered marine turtles that nest along the beaches of Sarasota County (Casey Key, Lido Key, Longboat Key, Manasota Key, Siesta Key, and the Island of Venice), by safeguarding the nesting female and hatchling marine turtles from the adverse effects of artificial light and adult and hatchling marine turtles from injury or harassment.

Section 3. Jurisdiction. The provisions of this Ordinance shall apply to Longboat Key, Lido Key, Siesta Key, Casey Key, the Island of Venice and Manasota Key, as well as the adjacent waters of New Pass, Big Sarasota Pass, Venice Inlet and the Gulf of Mexico within Sarasota County. Sections 6, 7 and 9 of this Ordinance shall not have any effect outside of the marine turtle nesting season.

Section 4. Definitions. For the purpose of this Ordinance, certain terms and words are defined as follows:

(A) Artificial light: Any source of light emanating from a human-made device.

(B) Beach: That area 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 non-pioneering vegetation.

(C) Bug light or bug type bulb: Any yellow colored light bulb that is marketed as being specifically treated in such a way so as to reduce the attraction of insects to the light.

(D) Coastal construction activities: Any work or activity that may have a physical effect on existing coastal conditions or natural shore and inlet processes.

(E) Coastal Construction Control Line (CCCL): The portion of the Coastal Construction Control Line established pursuant to the provisions of Section 161.053 Florida Statutes that lies within Sarasota County.

(F) County: Sarasota County, a political subdivision of the State of Florida.

(G) Cumulatively illuminated: Illuminated by numerous artificial light sources that as a group illuminate any portion of the beach. Such cumulative illumination must be bright enough to cast a shadow on any portion of the beach during any night of the sea turtle nesting season.

(H) Department: The Florida Department of Environmental Protection (FDEP).
(I) Directly illuminated: Illuminated as a result of glowing element(s), lamp(s), globe(s), or reflector(s) or any artificial light source which is visible to an observer on the beach.

(J) Dune: A mound or ridge of loose sediments, usually sand sized, lying landward of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation, and is subject to fluctuations in configuration and location.

(K) Frontal or fore dune: The first line of continuous and dynamic dunes (either natural or man made) encountered landward of the active beach.

(L) Ground level barrier: Any vegetation, natural feature or artificial structure rising from the ground that prevents beachfront lighting from shining directly onto the beach or dunes.

(M) Hatchling: Any species of marine turtle, within or outside of a nest, that has recently hatched from an egg.

(N) Indirectly illuminated: Illuminated as a result of the glowing element(s), lamp(s), globe(s), or reflector(s) or any artificial light source which is not visible to an observer on the beach.

(O) Inspector: An inspector from Sarasota County, unless a municipality has entered into an agreement with Sarasota County to perform inspections required pursuant to this Ordinance.

(P) Red light-emitting diodes (LED): miniature lamps that emit pure red light that does not vary in color over the life of the lamp. These lamps may be used in multiples to form strips of small lamps within a light fixture.

(Q) Low-pressure sodium luminaire (LPS): An electric discharge lamp containing sodium, neon, and argon, that when illuminated appears amber-yellow.

(R) Low-profile luminaire: A light fixture set on a base which raises the source of light no higher than twenty-four (24) inches above the ground, and is designed in such a way that light is directed downward from a hooded light source.

(S) Marine turtle: Any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in Florida waters and 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 Ripley). For purposes of this ordinance, marine turtle is synonymous with sea turtle.

(T) Nest: An area where marine turtle eggs have been naturally deposited or subsequently relocated.
(U) Nesting season: The period from May 1 to October 31 of each year.

(V) New development: New construction and remodeling of existing structures when such remodeling includes alteration of exterior lighting.

(W) Person: Any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, group, unit of federal, state, county, or municipal government, and all other groups or combinations thereof.

(X) Pole lighting: A light fixture set on a base or pole which raises the source of the light higher than twenty-four (24) inches off the ground.

(Y) Primary dune: The most seaward dune with sufficient alongshore continuity which has sufficient height and configuration or vegetation to offer protective value.

(Z) Publicly-owned lighting: Lighting installed by a public or private entity which is owned by, or rented or leased to a governmental agency, or lighting installed on public property.

(AA) Shield: A non-reflective covering, canopy or other such device fitted over and extended below a light source preventing light from illuminating the beach.

(BB) True neon: A tubular lamp containing neon gas that emits pure red light. Not to be confused with tubular fluorescent lamps which may appear as various colors.

(CC) Tinted or filmed glass: Any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of forty-five percent (45%) or less. Such transmittance is limited to the visible spectrum (400-700 nanometers) and is measured as the percentage of light that is transmitted through the glass.

Section 5. Standards for new development. New development, coastal construction, and building and electrical plans for construction of any structure shall be in compliance with the following, if the proposed development is waterward of the Coastal Construction Control Line (CCCL), or if the development creates any light sources that will be visible from the beach. Provisions of this section apply, but are not limited to all new coastal construction and development, including electrical plans associated with parking lots, dune walkovers, or other outdoor lighting for real property.

(A) Exterior artificial light fixtures shall be designed and positioned so that:

(I) The point source of light or any reflective surface of the light fixture is not directly visible from the beach;

(II) Areas seaward of the primary dune, or the beach in areas where the primary dune no longer exists are not directly or indirectly illuminated; and

(III) Areas seaward of the primary dune, or the beach in areas where the

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primary dunes no longer exists are not cumulatively illuminated.

(B) Exterior artificial light fixtures within direct line-of-sight of the beach are allowed if:

(I) Exterior lights are completely shielded downlight-only fixtures or recessed fixtures with non-reflective interior surfaces. These fixtures must have low wattage (i.e., 25 watts or less) "bug" type bulbs, low-pressure sodium vapor (LPS) bulbs, red light emitting diodes (LED) or true neon light sources. Other fixtures that have light blocking shields, louvers, or cutoff features may also be used if they are in compliance with subsection (A) above; and

(II) All fixtures are mounted as low in elevation as possible through use of low-mounted wall fixtures, low bollards, and ground level fixtures.

(C) Floodlights, uplights or spotlights that are directly visible from the beach, or which indirectly or cumulatively illuminate the beach, are prohibited.

(D) 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 for any exterior lights used expressly for safety or security.

(E) Dune crosswalks may be lighted. If lighted, dune crosswalks 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. All light fixtures on dune cross walks must utilize low wattage (i.e., 25 watts or less) "bug" type bulbs, low-pressure sodium vapor (LPS) bulbs, red light emitting diodes (LED) or true neon light sources. Dune crosswalk lighting seaward of the primary dune, or on the beach in areas where the primary dune no longer exists shall not be used.

(F) In parking areas within direct line-of-sight of the beach all lighting shall be:

(I) Set on a low-profile luminaire, and

(II) 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, indirectly or cumulatively illuminate the beach.

(G) Except for single family residences, all newly constructed parking areas and driveways, including any paved or unpaved areas upon which motorized vehicles will park or operate, shall be designed and located to prevent vehicular headlights from directly or indirectly illuminating the beach.

(H) Vehicular lighting, parking area lighting, and roadway lighting shall be shielded from the beach through the use of ground-level barriers.
Section 6. Standards for Existing Development. By May 1, 1998, all light sources or reflective surfaces illuminated by such sources that are visible from the beach shall be brought into compliance with the following:

(A) Existing artificial light fixtures shall be repositioned, modified, replaced, or removed so that:

(I) The point source of light or any reflective surface of the light fixture is not directly visible from the beach;

(II) Areas seaward of the primary dune, or the beach in areas where the primary dune no longer exists are not directly or indirectly illuminated; and

(III) Areas seaward of the primary dune, or the beach in areas where the primary dune no longer exists are not cumulatively illuminated.

barriers must not impede or entangle marine turtles or hatchlings, or cause short- or long-term damage to the beach/dune system.

(I) Tinted glass shall be installed on all windows and doors of single or multi-story structures within direct line-of-sight of the beach. Tint or film must meet the standards for tinted glass stated in Section 4 (CC) above.

(J) Temporary lighting of construction sites during the marine turtle nesting season shall be restricted to the minimal amount necessary and shall incorporate all of the standards of this section. Said lighting shall not be mounted more than eight (8) feet above the ground.

(K) Upon the issuance of a certificate of occupancy for any new development within direct line-of-sight of the beach, compliance with the beachfront lighting standards set forth in this ordinance shall be approved as follows:

(I) Upon completion of the construction activities, the inspector shall conduct a site inspection which includes a night survey with all beachfront lighting turned on.

(II) The county inspector shall prepare and report the inspection findings in writing identifying:

  a. The date and time of initial inspection;
  b. The extent of compliance with the lighting standards;
  c. All areas of observed noncompliance, if applicable;
  d. Any action(s) taken to remedy observed noncompliance, if applicable.

The inspector, in cases where remedial action is necessary, shall notify the owner or developer of the results of the inspection and shall schedule a date and time for a subsequent inspection.
(B) One or more of the following measures shall be taken to reduce or eliminate the negative effects of existing exterior artificial lighting, so that all existing development is in full compliance with subsection A above:

(I) Reposition fixtures so that the point source of light or any reflective surface of the light fixture is no longer visible from the beach;
(II) Replace fixtures having an exposed light source with fixtures containing recessed light sources or shields;
(III) Replace traditional light bulbs (e.g. incandescent, fluorescent, and high intensity lighting) with yellow "bug" type bulbs not exceeding 25 watts, low-pressure sodium vapor (LPS) bulbs, red light emitting diodes (LED) or true neon light sources;
(IV) Replace non-directional fixtures with directional fixtures that point down and away from the beach;
(V) Replace fixtures having transparent or translucent coverings with fixtures having opaque shields designed to be in compliance with subsection (A) above, and extending an appropriate distance below the bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach;
(VI) 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;
(VII) Plant or improve native vegetation buffers between the light source and the beach sufficient to screen light from the beach;
(VIII) Construct a ground-level barrier to shield light sources from the beach. 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, and;
(IX) Permanently remove, disable or lock in off position any fixture which cannot be brought into compliance with the provisions of these standards.

(C) One or more of the following measures shall be taken to reduce or eliminate the negative effects of interior light emanating from doors and windows within direct line-of-sight of the beach, so that all existing development is in full compliance with subsection A above;

(I) Apply window tint or film that meets the standards for tinted glass in Section 4 (CC) above.
(II) Rearrange lamps and other moveable fixtures away from windows;
(III) Use window treatments (e.g. blinds, curtains) to shield interior lights from the beach; and/or
(IV) Turn off unnecessary lights.

(D) The Board of County Commissioners is authorized to grant variances to the
date of compliance, after notice to the owner and a public hearing, where lighting installed before September 9, 1997, would be in violation of this Section. Such Variances may be granted only where the applicant has demonstrated that the application of these standards to such lighting will cause such an undue and unique hardship to the property, and that more time is needed to amortize the owner’s reasonable investment in the lighting. In granting a variance, the Board shall specify a schedule and plan to attain full compliance. Violation of the terms of such a plan or schedule shall constitute a violation of this Ordinance.

Section 7. Standards for publicly-owned lighting. All publicly-owned lighting with light sources that are visible from the beach or that illuminate reflective surfaces that are visible from the beach, including but not limited to street lights, parking lot lights, and beach access lighting, shall be 1) fitted with a shield or positioned so that the light source or any reflective surfaces illuminated by such sources are not visible form the beach and do not directly or indirectly illuminate the beach, or 2) shall be extinguished between sunset and sunrise from May 1 to October 31 of each year.

Section 8. Prohibition of activities disruptive to marine turtles. The following activities and situations are prohibited on the beach from sunset to sunrise during the nesting season:

A) The operation of all motorized vehicles, except emergency and law enforcement vehicles or persons who have authorization or a permit to engage in marine turtle conservation or research issued by the United States Fish and Wildlife Service, the State of Florida Department of Environmental Protection, or Sarasota County, and who are acting in conformance with such authorization or permit.

B) The building of campfires or bonfires.

C) Any transient lighting which purposely and flagrantly illuminates nesting sea turtles or hatchlings. This prohibition does not apply to persons who have authorization or a permit to engage in marine turtle conservation or research issued by the United States Fish and Wildlife Service, the State of Florida Department of Environmental Protection, or Sarasota County, and who are acting in conformance with such authorization or permit.

D) It will be the responsibility of Sarasota County to invoke an educational program to enlighten and educate the population in those areas with nesting sea turtles to the advantages of removing or storing temporary structures located seaward of the CCCL.

Section 9. Construction during nesting season. During the nesting/hatching season, it shall be unlawful to construct any structure, excavate or place any fill, mechanically clean any beach, or grade any dirt within 100 feet of the nesting zone of a beach where marine turtles nest or may nest, without 1) obtaining written approval from the Florida Department of Environmental Protection (FDEP) (62B-33 Florida Administrative Code, Florida Statute 161, and Florida Statute 370.12), and 2) coordinating each activity by means of a written agreement with sea turtle monitoring personnel holding
a current and valid permit from the FDEP for the specific area.

(A) Construction activities shall not interfere with marine turtle nesting, nests or hatching activities, 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 10. Unlawful to kill, molest, or injure marine turtles. In accordance with Florida Statute chapter 370 and the U.S. Endangered Species Act of 1973, it shall be unlawful for any person to kill, molest, harass, or cause direct or indirect injury to any species of marine turtle in Sarasota County or within its jurisdictional waters. It shall be unlawful to collect or possess any part of a marine turtle, turtle nest and/or egg(s). Sarasota County will cooperate with appropriate state and federal agencies in prosecuting violations of the Act.

Section 11. Education and Information. The County and/or a private not-for-profit organization shall prepare and distribute brochures to coastal establishments and residents and make presentations about the effects of light on endangered sea turtle reproduction and about sea turtle biology, generally. The County has the authority to notice first-time violators of the sea turtle lighting ordinance by sending a letter to the offender describing the violation and enclosing a brochure and summary of the ordinance. Subsequent offenses will be treated with enforcement measures as described in Section 12.

Section 12. Civil and Administrative Enforcement Powers: Criminal Penalties.

(A) The County shall have the power to enforce the provisions of this Ordinance by equitable or legal judicial proceedings, as well as by any other legal or administrative means, including code enforcement proceedings as set out in Ordinance No. 93-006, as amended. Each day of any such violation shall constitute a separate and distinct offense.

(B) No permit may be issued by the County to improve or expand any facility constructed or modified in violation of this Ordinance, unless the violation has been corrected.

(C) A violation of any of the provisions of this Ordinance shall be punishable in the same manner as a misdemeanor and punishable as provided by Section 125.69, Florida Statutes. Each day of any such violation shall constitute a separate and distinct offense.

Section 13. Applicability. This ordinance shall be applicable and enforceable throughout Sarasota County, including all municipalities therein. The Board of County Commissioners may enter into an interlocal agreement with any municipality for the administration and enforcement of the provisions contained within this ordinance.
Section 14  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 redesignation thereof.

Section 15. Severability. It is declared to be the legislative intent that if any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected.

Section 16. Effective date. This ordinance shall take effect immediately upon receipt of official acknowledgment from the office of the Secretary of State of Florida that this ordinance has been filed with said office.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this 14th day of October, 1997.

BY:

Chairman

ATTEST:
KAREN E. RUSHING, Clerk of Circuit Court and Ex-Officio Clerk of the Board of County Commissioners of Sarasota County, Florida

BY: Sue Garland
Deputy Clerk

STATE OF FLORIDA)
COUNTY OF SARASOTA)
I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN THIS OFFICE WITNESS MY HAND AND OFFICIA1:

SEAL THIS DATE 10/22/97
KAREN E. RUSHING, CLERK OF THE CIRCUIT COURT EX-OFFICIO CLERK TO THE BOARD OF COUNTY COMMISSIONERS, SARASOTA COUNTY, FLORIDA

BY:

Deputy Clerk

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