

# ARTICLE 14

## ENVIRONMENTAL STANDARDS

### CHAPTER A SEA TURTLE PROTECTION AND SAND PRESERVATION

#### Section 1 Purpose and Intent

The purpose of this Chapter is to reduce impacts of coastal lighting and beach obstructions on sea turtles and prohibit the removal of sand from the beach/dune system. [Ord. 2009-040]

#### Section 2 Definitions

See Art. 1.H, Definitions and Acronyms.

#### Section 3 STPZ/STPO – Sea Turtle Protection Ordinance

This Chapter shall be known as the PBC Sea Turtle Protection and Sand Preservation Standards. It repeals and replaces PBC Ordinances No. 72-12, 78-20, 87-13, and 90-2.

#### Section 4 Applicability

- A. All provisions of this Chapter shall be effective within the unincorporated and incorporated areas of PBC, and shall set restrictions, constraints, and requirements to preserve and protect sea turtles, sea turtle habitat, and beach/dune sediments. Notwithstanding the foregoing, incorporated areas that have a Sea Turtle Protection Ordinance (STPO) shall not be subject to the provisions of this Chapter that pertain to coastal lighting, and incorporated areas that have established a sand protection zone to preserve beach/dune sediments shall not be subject to the provisions of this Chapter pertaining to sand preservation. [Ord. 2011-001]
- B. PBC funds for dune restoration or shore protection projects in municipalities shall be contingent upon this Chapter being fully enforced or the adoption and enforcement of an equally stringent or more stringent ordinance by a municipality. Funding determinations shall be based on ERM's review and acceptance or rejection of a municipality's replacement ordinance, as well as a review of permits and variances and enforcement notices issued pursuant to the municipal ordinance.
- C. This Chapter shall apply to any coastal lighting activity that has the potential to adversely impact sea turtles in PBC within the limits of jurisdiction. This Chapter shall also apply to any sand removal or degradation that has the potential to adversely impact the unique sediments which comprise the coastal beach/dune system in PBC within the limits of jurisdiction.

#### Section 5 Authority

This Chapter is adopted under the authority of F.S. § 125.01 *et seq.*

#### Section 6 Jurisdiction

- A. ERM shall have regulatory authority over coastal lighting and alterations to the beach/dune system. This Chapter establishes two zones of jurisdiction: the Sea Turtle Protection Zone (STPZ) and the Sand Preservation Zone (SPZ). The STPZ extends from three miles offshore of the Atlantic Ocean and along inlet shorelines to a line 600 feet landward of the mean high-water line. The SPZ extends from the mean high-water line of the Atlantic Ocean to 600 feet landward.
- B. The STPZ is established for the purpose of minimizing and controlling coastal lighting. [Ord. 2011-001]
- C. The SPZ is established for the purposes of maintaining the volume and quality of beach sand presently existing within the beach/dune system. The unique characteristics of the sediments contained in the existing beaches and dunes of PBC require the preservation of these materials within the beach/dune system. [Ord. 2011-001]
- D. Within the limits of jurisdiction of the STPZ as defined in this Chapter, no person, firm, corporation, municipality, special district, or public agency shall perform new building construction or install any new artificial lighting on any property that, in whole or in part, is seaward of a line 600 feet landward of the mean high-water line without first having obtained an approved Sea Turtle Protection Lighting Plan (STLP) from ERM as provided for in this Chapter. Existing beachfront lighting causing direct or indirect illumination within

the STPZ as defined herein shall comply with Art. 14.A.11, Standards for Existing Beachfront Lighting. [Ord. 2009-040]

- E. Within the limits of jurisdiction of the SPZ as defined in this Chapter, no person, firm, corporation, municipality, special district, or public agency shall remove any beach or dune sediments from their property or from the SPZ without first complying with Art. 14.A.13, Standards for SPZ.
- F. Beach obstructions are exempt from the requirements of this Article. However, this exemption shall not be in effect during sea turtle nesting season (March 1 through October 31) unless the structures are removed daily from the beach from sunset until two hours following sunrise or after completion of a dedicated independent sea turtle nesting survey by a Marine Turtle Permit Holder. Beach obstructions shall be removed from the beach or placed in a single row as close to the toe of the dune as possible in an area that does not impact native vegetation or significantly affect sea turtles. Exemptions under this provision are not intended to authorize any violation of F.S. § 379.2431 or any of the provisions of the Endangered Species Act of 1973, as may be amended. [Ord. 2006-036] [Ord. 2009-040]

## **Section 7      *De Minimis***

Those projects for which ERM provides a written determination that there will be no significant adverse environmental impacts. Approvals may include but are not limited to: removal of a light source whether approved or not approved; reduction in light intensity of a light source; installation of a light source within the STPZ which is not directly or indirectly visible from the beach. [Ord. 2009-040]

## **Section 8      **Sea Turtle Protection Lighting Plan****

- A. A STLP approval is required for all new building construction and new artificial lighting proposed within the limits described in Art. 14.A.6.D. A STLP must be approved by ERM prior to the issuance of a Building Permit by the PZB or the local building department. [Ord. 2009-040] [Ord. 2011-001]
- B. Applications shall be made on a form approved by ERM. ERM may make use of forms already in use by the State of Florida and/or Federal agencies.
- C. ERM may attach conditions to any STLP approval where such conditions are deemed reasonably necessary to protect sea turtles.
- D. Any application received that is substantially the same as a previous application that has been denied by ERM shall also be denied without further processing.
- E. Any site or Property Owner that is subject to or recipient of a notice of violation or notice of non-compliance that remains unresolved shall not be issued an ERM STLP approval.
- F. STLP approval shall not be issued until any and all information necessary to fully understand the extent, nature, and potential impacts of a proposed lighting plan are received by ERM. Such information may include, but is not limited to: [Ord. 2011-001]
  - 1. A completed application form;
  - 2. An explanation of the necessity and purpose of the proposed lighting;
  - 3. Photographs of existing conditions which may include aerial photographs;
  - 4. Plans showing profile and plan views depicting all light fixture locations, the elevations of proposed and existing structures, proposed and existing vegetation, beach/dune profiles, and pertinent topographic information; and,
  - 5. Electrical, building, and landscape plans shall be submitted illustrating all exterior lights and windows within jurisdictional boundaries. Light and window tinting information shall include: [Ord. 2009-040]
    - a. The location, number, wattage, elevation, orientation, light fixture cut sheets, photometric illustrations, and all type(s) of proposed artificial light sources. [Ord. 2006-036]
    - b. Protective/mitigative measures to minimize lighting impacts on sea turtles, including measures to prevent direct and indirect illumination that is visible from the beach. [Ord. 2009-040]
    - c. Window tinting specifications for all windows and doors within line of sight of the beach including percentage of visible light transmittance (see definition of tinted glass).
- G. When an application is made for a STLP approval in common areas of a Multifamily residential site (e.g., condominiums, apartments, Townhouses, villas, etc.), the representative association, or all of the homeowners as a group, shall be the Applicant. ERM shall not process an application made by one unit owner in a Multifamily setting where the work is proposed on lands designated as, or can reasonably be considered to be, common areas.
- H. Upon receipt of an application and appropriate application fee, ERM shall have 30 days to request any additional information. Within 30 days of receipt of such additional information, ERM may request only that

information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information. [Ord. 2011-001]

- I. If ERM does not make a request for additional information within 30 days of receipt of an application or requested information, the application shall be deemed complete upon receipt.
- J. If an Applicant fails to respond to an ERM request for an application fee, or any additional information, within 60 days, the application may be denied without prejudice. However, ERM may grant an extension of time as is reasonably necessary to fulfill the request for additional information.
- K. Upon receipt of a completed application and fee, ERM shall have 90 days to take final action unless the Applicant agrees in writing to a time extension or waiver of this requirement. Final agency action shall be approval of a STLP, denial of a STLP, or conditional approval of a STLP. Failure by ERM to take final action within 90 days shall result in the authorization of the proposed work with standard limiting conditions.
- L. Any application containing false information may be denied, and any STLP approval granted based upon false information may be revoked. [Ord. 2011-001]
- M. ERM STLP approvals may be issued with a duration period that is reasonably necessary to complete the project not to exceed five years.
- N. Any substantial modification to a complete application, or a STLP approval, shall require an amended application form and an additional application fee and shall restart all time periods of this Section.
- O. No application shall be processed until ERM receives the appropriate application fee. [Ord. 2011-001]

## **Section 9      Criteria for STLP Approval**

- A. A STLP approval may be issued pursuant to this Chapter provided that the Applicant provides to ERM reasonable assurance that there shall be no adverse impacts to sea turtles, sea turtle nesting, and sea turtle habitat, and that the following criteria will be met:
  - 1. Any and all light fixtures shall be designed to be the minimum level necessary for safety and shall be positioned such that they do not cause direct or indirect illumination that is visible from the beach. [Ord. 2009-040] [Ord. 2011-001]
    - a. All outdoor lighting and exterior lighting shall be directed downwards. No lights shall be directed upwards. [Ord. 2009-040]
    - b. Filters shall be prohibited. [Ord. 2009-040]
    - c. All exterior fixtures on the seaward and the shore perpendicular sides of the building (and the landward side of the building if they are visible from the beach) shall be well shielded and full cutoff. [Ord. 2009-040]
    - d. Long wavelength lights that produce light that measures greater than 570 nanometers, shall be used for all coastal construction visible from and adjacent to the beach. Bright white light, such as metal halide, halogen, fluorescent, mercury vapor, and incandescent lamps will not be approved. Shorter wavelength lights will only be approved in areas where direct or indirect illumination is not visible from the beach. [Ord. 2009-040]
  - 2. **Use of Window Treatments at Multifamily Residential Properties**  
In common areas of a Multifamily residential property, window treatments that are sufficient to prevent direct or indirect illumination visible from the beach shall be required on all windows visible from the beach within jurisdictional boundaries. [Ord. 2009-040]
  - 3. ERM determines that coastal lighting alternatives and modifications to lessen impacts are infeasible.
  - 4. ERM determines that the cumulative impacts of the subject lighting project and other similar lighting projects will also meet the criteria of this Article. [Ord. 2009-040]
- B. Measures that may be implemented to protect sea turtles include: elimination, modification, or alteration of all proposed and/or existing exterior lights that cause illumination which is directly or indirectly visible from the beach. [Ord. 2009-040]
- C. All lighting installed after September 2, 1987 shall comply with the following standards: [Ord. 2011-001]
  - 1. Artificial public or private light source shall not cause illumination which is directly or indirectly visible from the beach where it may deter adult female sea turtles from nesting or disorient hatchlings. [Ord. 2009-040]
  - 2. The installation of coastal lighting shall meet the standards and mitigative measures published in the current state-of-the-art manual pertaining to coastal lighting and sea turtle conservation available at ERM (Witherington, Blair E. & Eric R. Martin, Understanding, Assessing and Resolving Light-pollution Problems on Sea Turtle Nesting Beaches, Florida Marine Research Institute Technical Report, Florida Department of Environmental Protection, 2000). [Ord. 2009-040] [Ord. 2011-001]
  - 3. Any and all light fixtures shall be designed and/or positioned such that they do not cause illumination which is directly or indirectly visible from the beach. [Ord. 2009-040]

4. All lights on balconies shall be eliminated or shielded from the beach. Proposed balcony lights which do not meet standard Art. 14.A.9.C.1, above shall not be authorized. [Ord. 2005-002] [Ord. 2009-040]
5. Artificial lighting for decorative or accent purposes shall not be authorized within the zone of jurisdiction unless it will not be directly or indirectly visible from the beach. [Ord. 2009-040]
6. Lighting used in parking lots shall be: [Ord. 2009-040]
  - a. Set on a base which raises the source of light no higher than 48 inches off the ground unless the lighting does not cause illumination or is not directly or indirectly visible from the beach. [Ord. 2009-040]
  - b. Positioned and/or shielded such that the source of light is not visible from the beach and does not cause illumination directly or indirectly visible from the beach. [Ord. 2009-040]
7. Sign lighting may be authorized provided it illuminates an area less than 15 square feet and meets the criteria of standard Art. 14.A.9.C.1, above.
8. Permanent fire pits shall be positioned and/or shielded to ensure that the source of illumination is not directly or indirectly visible from the beach. Maximum flame height shall be determined at final inspection. [Ord. 2009-040]
9. Open fires on the beach shall be prohibited during sea turtle nesting season. [Ord. 2005-002]
10. Tinted glass or any window film applied to window glass which meets the defined criteria for tinted glass, shall be installed on all windows and doors within line of sight of the beach.
11. Pool deck lights and underwater pool lights shall be turned off while the pool is closed at sunset during sea turtle nesting season, March 1 through October 31. The use of an automatic timer shall be acceptable only for pool lighting. [Ord. 2009-040]

## **Section 10      Inspection Required**

- A. Prior to the issuance of a Certificate of Occupancy (CO) by the PZB or local building department, each facility shall be inspected for compliance as follows:
  1. Upon completion of the construction activities, a State of Florida-registered Architect, Landscape Architect, Environmental Professional, or Professional Engineer shall conduct a site inspection which includes a night survey with all the beachfront lighting turned on to the highest illumination levels. [Ord. 2009-040]
  2. The inspector shall prepare and report the inspection finding in writing to ERM, identifying:
    - a. the date and time of initial inspection;
    - b. the extent of compliance with this Chapter and the approved STLP;
    - c. all areas of potential and observed non-compliance with this Chapter;
    - d. any action(s) taken to remedy observed non-compliance and date remedy will be implemented, if applicable; and,
    - e. the date(s) and time(s) of remedial inspection(s), if applicable.
  3. The inspector shall sign and seal the inspection report which includes a certification that:
    - a. the beachfront lighting has been constructed in accordance with this Chapter;
    - b. the inspector observed the project area at night with all lights operating;
    - c. the beachfront lighting does not cause direct or indirect illumination that is visible from the beach at the time of the night inspection; and, [Ord. 2009-040]
    - d. the beachfront light sources within the jurisdictional boundaries are not directly or indirectly visible from the beach at the time of the night inspection.

## Section 11 Standards for Existing Beachfront Lighting

### A. Existing Beachfront Lighting

Existing beachfront lighting causing direct or indirect illumination within the STPZ shall be adjusted or corrected to ensure that the lighting does not cause illumination that is directly or indirectly visible from the beach. [Ord. 2011-001]

### B. Adjustment to Essential Lighting

Changing coastal conditions (including but not limited to erosion, renourishment, and vegetation impacts), may necessitate retrofitting light fixtures. Installation of a new fixture shall require an approved Sea Turtle Lighting Plan (STLP) that must comply with Art. 14.A.9, Criteria for STLP Approval. Retrofits to existing fixtures shall be designed and/or positioned to ensure that they do not cause illumination that is directly or indirectly visible from the beach. [Ord. 2006-036] [Ord. 2009-040] [Ord. 2011-001]

### C. Reduction of Indirect Lighting on the Beach

The installation and maintenance of ground-level barriers including dense native vegetation is strongly encouraged and may be required to reduce the amount of lighting striking the beach/dune system. [Ord. 2009-040]

### D. Lighting for Pedestrian Traffic

Lights illuminating beach access points, dune crossovers, beach walkways, piers, or any other structure designed for pedestrian traffic shall be the minimum level necessary to maintain safety and shall be located and shielded such that lights and their illumination are not directly or indirectly visible from the beach. [Ord. 2009-040]

### E. Use of Window Treatments

To prevent interior lights from illuminating the beach, window treatment shall be required on all windows visible from the beach within jurisdictional boundaries. Blackout draperies or shade screens are preferred. Alternatively or additionally, window tint may be applied to beachfront windows. The turning out of all unnecessary interior lights during the nesting season is strongly encouraged.

### F. Special Lighting Restrictions during the Nesting Season

Effective May 1, 1988, and continuously throughout each nesting season (March 1 through October 31), external light sources that are directly or indirectly visible from the beach shall be disconnected or otherwise modified to comply with this Chapter. [Ord. 2009-040]

### G. Recommended Corrective Action

The following measures can be used to reduce or eliminate the effects of any exterior lighting on hatchlings and nesting sea turtles:

1. permanently remove the light fixture; [Ord. 2006-036]
2. disconnect the light fixture; [Ord. 2006-036]
3. reposition the light fixture so the point source of light is no longer visible from the beach; [Ord. 2006-036]
4. replace light fixtures having an exposed light source with light fixtures containing recessed light sources or shields; [Ord. 2006-036]
5. replace non-directional light fixtures with directional light fixtures pointing down and away from the beach; [Ord. 2006-036]
6. replace light fixtures having translucent or transparent coverings with light fixtures having opaque shields covering an arc of at least 180 degrees and extending an appropriate distance below the bottom edge of the light fixture on seaward side so the light source is not visible from the beach; [Ord. 2006-036]
7. replace pole lamps with low-profile, low-level luminaires so that the light source is not visible from the beach;
8. plant or improve vegetation buffers between the light source and the beach to screen light from the beach;
9. construct an ornamental structural barrier to shield light source from the beach; and,
10. modify the light fixture by adding a shield. [Ord. 2006-036]

## **Section 12 Standards for Dune Crossovers**

### **A. Information Sign Requirements**

Permanent sea turtle information signs shall be conspicuously posted by applicable jurisdictions at all public beach access points provided with dune crossovers. The information signs shall be standardized by ERM.

#### **1. Sign Posting Responsibility**

Sea turtle information signs shall be encouraged at all new private beach access points provided with dune crossovers. Signage shall be the responsibility of the Property Owner.

#### **2. Sign Maintenance Requirements**

Standardized sea turtle information signs shall be maintained in perpetuity such that information printed on the signs remains accurate and legible and the signs positioned such that they are conspicuous to persons at all public beach access points provided with dune crossovers.

#### **3. Sign Removal**

Removal of the information signs by anyone other than those authorized by ERM is prohibited.

## **Section 13 Standards for SPZ**

- A. There shall be no net loss of sand from the SPZ. Sand temporarily excavated from the SPZ shall be returned to the SPZ. Sand shall be returned to the SPZ prior to the issuance of a building department CO where a CO is required, or within six months of the excavation for projects which do not require a CO. In addition, the sand may not be degraded by mixing with any sediment, soil, or material, such that it will not meet the definition for beach compatible sand as defined. [Ord. 2009-040]
- B. Sediment analysis of existing beach/dune and any proposed fill material to be mixed with the existing sand may be required by ERM. Written notification must be provided to ERM (attention: ERM Coastal Geologist) prior to removal of sand from the SPZ.

## **Section 14 Appeals**

Any affected party may appeal a final determination of ERM pursuant to Art. 14.C.11, Appeals.

## **Section 15 Fees**

- A. Fees shall be required as established by Resolution of the BCC. [Ord. 2009-040] [Ord. 2011-001]
- B. Fees shall be non-refundable and non-transferable.
- C. All application fees paid by check shall be made payable to the BCC.

## **Section 16      Violations**

- A. An unapproved lighting source illuminated during the night that is directly or indirectly visible from the beach. [Ord. 2011-001]
- B. An approved lighting source that has experienced a change in conditions such that it is no longer in conformance with this Chapter. Violations may include but are not limited to: increase of intensity or direction of the light source; failure to maintain proper shielding; addition or modification of adjacent structures; modification of background colors of the structure; or, modification of height of vegetation, width or height of dune, or width of beach. [Ord. 2011-001]
- C. Installation of beachfront light fixtures in the limits described in Art. 14.A.6.D, without ERM approval. [Ord. 2009-040]
- D. Submittal to ERM of any signed and sealed lighting inspection report containing false information.
- E. Removal of sand from the SPZ without first supplying written notification to ERM.
- F. Degrading sand by mixing with sediment, soil, or material such that it will not meet the definition for beach compatible sand.
- G. Alterations which result in a net loss of sand from the SPZ.
- H. Failure to comply with the requirements of this Chapter or any approval granted or authorized hereunder.
- I. Traversing a natural dune by a pedestrian within 200 feet of a public dune walkover.
- J. Any lighting projects or alterations which would have been in violation of PBC Ordinances No. 72-12, 78-20, 87-13, or 90-2, as amended, during its effective period, shall continue to be violations under this Chapter but shall be subject to prosecution under the terms of PBC Ordinances No. 72-12, 78-20, 87-13, or 90-2, as amended.

## **Section 17      Enforcement and Implementation of Corrective Measures**

- A. In order to enforce compliance with the provisions of this Chapter, ERM may do one or more of the following: [Ord. 2011-001]
  - 1. provide the violator with verbal or written notice of non-compliance; [Ord. 2011-001]
  - 2. require a non-compliant Property Owner to take corrective measures; [Ord. 2011-001]
  - 3. issue a notice of non-compliance; [Ord. 2011-001]
  - 4. issue a notice of violation citation; [Ord. 2011-001]
  - 5. issue a Notice of Hearing; [Ord. 2011-001]
  - 6. issue a cease and desist order; and, [Ord. 2011-001]
  - 7. require that a Building Permit or CO be withheld, if the non-compliance involves new construction. [Ord. 2011-001]
- B. When a violator is required to take corrective measures to cure a violation, such corrective measures shall be implemented in addition to applicable penalties and fines. [Ord. 2011-001]
- C. Violations of the provisions of this Chapter shall be punishable by one or more of the following:
  - 1. triple application fees for STLP approvals not obtained prior to violations involving activities which would otherwise have been authorized as determined by ERM;
  - 2. enforcement procedures as outlined in this Chapter and in Art. 10.C, Groundwater and Natural Resources Protection Board. [Ord. 2011-001]
- D. All monies collected as civil penalties for violations of this Chapter shall be deposited in the Pollution Recovery Trust Fund.