

ORDINANCE NUMBER 14-08 (fka 13-16)

AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING SECTION 66-31 TO REQUIRE THE REMOVAL OF ITEMS FROM THE BEACH YEAR ROUND; DELETING SECTIONS 66-41 THROUGH 66-44 IN THEIR ENTIRETY; ADOPTING UPDATED AND REVISED SEA TURTLE FRIENDLY LIGHTING REGULATIONS; PROVIDING FOR INCLUSION INTO THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the placement on the beaches of items and temporary structures which enhance recreational use and enjoyment of the beach is recognized as necessary and appropriate; and

WHEREAS, the City finds that the leaving of these items and temporary structures on the beach overnight creates hazards to persons and wildlife and results in an adverse visual impact to the natural shoreline; and

WHEREAS, the City of Holmes Beach recognizes that artificial lighting of beaches is a serious threat to sea turtles and other species utilizing its beaches; and

WHEREAS, the City of Holmes Beach recognizes that nesting adult and hatchling sea turtles are negatively affected by artificial light cast onto the beaches; and

WHEREAS, the City of Holmes Beach recognizes that sea turtles are protected by federal and state law; and

WHEREAS, the City of Holmes Beach recognizes that both its economy and the quality of life of its residents are enriched by a healthy sea turtle population; and

WHEREAS, the City of Holmes Beach desires to minimize the detrimental impact on nesting sea turtle populations, and other list sensitive wildlife by implementing a system of rules and regulations that reduces the amount of artificial light intentionally or unintentionally cast onto beaches.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF HOLMES BEACH, FLORIDA, CITY COMMISSION OF HOLMES BEACH ON THIS DAY OF _____, 2014.

Section 1. Section 66-31. Removal of Items From the Beach.

1. Private Property

During the period beginning on May 1st and running through November 15th of each year, any items or temporary structures, including but not limited to screen rooms, beach chairs, umbrellas and cabanas, which have the potential for entrapment of marine turtles and which may interfere with the use of the natural beach environment for nesting of marine turtles shall be:

a. Removed from the beach nightly by the owner of the property upon which the item or temporary structure is located. If the item or temporary structure is not removed, it may be tagged or removed by a code enforcement officer, police officer or certified wildlife officer.

b. Any item so removed shall be stored in areas designated by the City for that purpose which area shall be situated to avoid interference with marine turtles.

c. After ninety (90) days of impoundment, as required by Section 705.103, Florida Statutes, the City may discard and dispose of any items or temporary structures removed pursuant to this Section. The City may, by resolution, enact an impoundment fee to be collected at the time any items or temporary structures are retrieved from the impoundment by the party claiming the item or temporary structure.

2. Public Property

Throughout the year, any items or temporary structures, including but not limited to screen rooms, beach chairs, umbrellas and cabanas are prohibited from being left overnight on public beaches, any such item or temporary structure left on public beaches shall be considered abandoned and may be removed by a city code enforcement officer, police officer or a certified wildlife officer and impounded. After 90 days of impoundment, as required by Section 705.103, Florida Statutes, the City may discard and dispose of any items or temporary structures removed pursuant to this Section. The City may, by resolution, enact an impoundment fee to be collected at the time any items or temporary structures are retrieved from impoundment by the party claiming the item or temporary structure.

Section 2. Charter 66 Article II. Beaches Division 2 is hereby deleted and a new Division 2, Sections 66-41 – 66-54 enacted which shall read as follows:

Section 66-41. Ordinance Purpose and Objectives.

The purpose of this ordinance is to protect nesting sea turtles on the beaches in the City of Holmes Beach by ensuring that their nesting habitat is not degraded by artificial light. The objective of the ordinance is to ensure artificial light does not illuminate the beach through the design and implementation of “sea turtle friendly” lighting systems that properly exclude the beach from their range. In order to further the objective of full implementation, this ordinance also includes provisions designed to educate residents and beach users in the City of Holmes Beach on the benefits of sea turtle friendly lighting and provides for monthly inspections to ensure compliance with the acceptable lighting standards.

Section 66-42. Definitions

1. *Artificial Light* means the light emanating from any human-made device.
2. *Beach* means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation.
3. *Cumulatively* means illumination by numerous artificial light sources that as a group illuminate any portion of the beach.
4. *Directly* means illumination as the result of an artificial light source and visible to an observer located beyond the frontal dune.
5. *Dune* means any mound, bluff, or ridge of loose sediment, usually sand-sized sediment, lying upland 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.
6. *Fully Shielded* means a lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed so the light source is not visible from the beach.

7. *Full Cut Off* means fixtures are independently certified by the manufacturers, and do not allow light to be emitted above the fixture and the fixture reduces glare by limiting the light output to less than 10% at and below 10 degrees below the horizontal.
8. *Illuminate* means that more than zero footcandle of artificial light can be measured at any location.
9. *Indirectly* means illumination as a result of an artificial light source when the artificial light source is not visible by an observer located beyond the most seaward dune but the lumen output is reaching the beach.
10. *Long Wavelength* means a luminaire emitting light wavelength of 560 nanometers or greater.
11. *Sea Turtle* means any turtle, including all life stages from egg to adult, of the species: Green (*Chelonia mydas*), Leatherback (*Dermochelys coriacea*), Loggerhead (*Caretta caretta*), Hawksbill (*Eretmochelys imbricate*) and Kemp's Ridley (*Lepidochelys kempii*).
12. *Nesting Season* means the period from May 1 through October 31 of each year for all counties except Brevard, Indian River, St. Lucie, Martin, Palm Beach and Broward. Nesting season for Brevard, Indian River, St. Lucie, Martin, Palm Beach and Broward counties means the period from March 1 through October 31 of each year (*due to the earlier nesting times for Leatherback Sea Turtles in these counties*).
13. *Nighttime* means the locally effective time period between sunset and sunrise.
14. *Outdoor Area* means any portion of a property that could have an artificial light source not attached to a permanent structure and is not primarily lighting a parking area or roadway.

Section 66-43. Sea Turtle Lighting District

- (1.) An overlay district, known as the *Sea Turtle Friendly District*, is hereby established within the City of Holmes Beach, Florida.

- (2.) The *Sea Turtle Friendly District* shall include all properties within the City of Holmes Beach that may directly, indirectly, or cumulatively illuminate the beach with artificial light at any time, and regardless of whether those properties are beachfront properties.
- (3.) The provisions of this ordinance apply to all buildings and related infrastructure, including landscaping, as well as all other activities within the *Sea Turtle Friendly District*.

Section 66-44. Annual Public Notice

At least thirty days prior to the commencement of every sea turtle nesting season, the City of Holmes Beach shall provide written notice of the provisions contained in this Ordinance to each property within the *Sea Turtle Friendly District*.

Section 66-45. Exterior Lighting Affixed To Structures

1. All lighting affixed to the exterior of permanent structures shall be long wavelength and fully shielded.
2. All non-egress lighting affixed to the exterior of permanent structures shall not directly, indirectly or cumulatively illuminate the beach.
3. Lighting at egress points shall be limited to the minimum number of fixtures and footcandles necessary to meet federal, state and local safety requirements.
4. Lighting affixed to the exterior of permanent structures shall consist of either:
 - a. Wall or ceiling down-light fixtures, equipped with interior dark-colored, non-reflective baffles or louvers, mounted at a maximum height of eight feet above the adjacent floor or deck, as measured from the bottom of fixture, or
 - b. Louvered wall fixtures, equipped with downward-directed louvers that completely hide the light source, with the bottom of fixture mounted 12 inches or less above the adjacent floor or deck, or

- c. Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source and externally shielded on the side facing the beach.
5. Balcony lights on the seaward and shore-perpendicular sides of permanent structures shall be turned off at all times during nighttime in sea turtle nesting season.
6. Interior locations including but not limited to stairwells, elevators, parking garages, or courtyards that allow light to escape through windows or other openings shall not directly, indirectly, or cumulatively illuminate the beach.
7. All windows and glass doors on the seaward and shore-perpendicular sides of any structures shall be designed for a light transmittance value of 15% or less through the use of tinted glass, window film, or screens.
8. Emergency lights shall be on a separate circuit activated only during power outages or other situations where emergency lighting is necessary for public safety.

Section 66-46. Lighting in Outdoor Areas

1. All lighting of outdoor areas including parks, businesses and city properties shall be long wavelength and fully shielded.
2. Outdoor lighting that projects light upward shall be strictly prohibited.
3. Lighting of outdoor areas shall consist of either:
 - a. Ground-level downward-directed fixtures, equipped with interior dark-colored, non-reflective baffles or louvers, mounted either with a wall mount on walls or piles facing away from the beach, or
 - b. Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped

with downward-directed louvers that completely hide the light source, and externally shielded on the side facing the beach.

4. Lighted signs shall not be located on the seaward and shore-perpendicular sides of any structures, and sign lighting shall not directly, indirectly, or cumulatively illuminate the beach.
5. Pond lights and fountain lights shall not be located on the seaward and shore-perpendicular sides of any structures.
6. Fire pits shall be located landward of the most seaward dune and shielded so that the flame is not visible from the beach.

Section 66-47. Lighting of Parking Areas and Roadways

1. All lighting of parking areas and roadways shall be long wavelength, fully shielded, and full cutoff.
2. Parking area and roadway lighting shall be shielded from the beach using vegetation, natural features, or artificial structures rising from the ground which prevent artificial light sources, including but not limited to vehicular headlights, from directly, indirectly, or cumulatively illuminating the beach.
3. Lighting of roadways shall produce no more than 1.0 footcandles of light in any location.
4. Lighting of parking areas and roadways shall consist of either:
 - a. Ground-level downward-directed fixtures, equipped with interior dark-colored, non-reflective baffles or louvers, mounted either with a wall mount on walls or piles facing away from the beach, or
 - b. Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source, and externally shielded on the side facing the beach, or

- c. Pole-mounted lights, if required, which shall adhere to the restrictions located in Section 4.6.
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- 5. Pole-mounted lights shall be only used in parking areas and roadways when mounting the light at lower elevations cannot practicably comply with minimum light levels set forth in applicable state and federal laws, rules, and regulations designed to protect public safety. If required, pole-mounted lights shall be:
 - a. Located on the landward sides of buildings in locations that will not directly, indirectly, or cumulatively illuminate the beach.
 - b. Mounted no higher than 15 feet above the ground on arterial roadways or 20 feet above the ground if required on Department of Transportation right-of-ways, and
 - c. Full cutoff, downward-directed onto non-reflective surfaces.
 - 7. Equipment yards, storage yards, and temporary security lights shall also adhere to the lighting restrictions contained in this section.

Section 66-48. Lighting of Pool Areas

- 1. Lighting of pool decks, pool facilities, swimming pools, and spas shall be long wavelength and fully shielded.
- 2. Lighting of the pool water surface and the pool wet deck surface shall produce no more than 3.0 footcandles of light in any location.
- 3. Above-water lighting of pool decks, pool facilities, swimming pools, and spas shall be turned off at nighttime during sea turtle nesting season when closed. The use of an automatic timer is acceptable.
- 4. Above-water lighting of pool decks, pool facilities, swimming pools, and spas shall otherwise adhere to the applicable requirements for acceptable light fixtures contained in Section 2 and Section 3 of this part.

5. Underwater lighting of pools or spa light shall be:
 - a. Downward-directed,
 - b. Not directly indirectly, or cumulatively illuminating the beach, and
 - c. Produce no more than 0.5 footcandles of light above the water surface.

Section 66-49. Lighting of Pier Structures

1. Lighting of pier structures projecting over the beach or over water shall be long wavelength and fully shielded.
2. Lighting of pier structures projecting over the beach or over water shall be mounted as low to the deck as possible to prevent light pollution or spillage beyond the walking surface.
3. Lighting of pier structures projecting over the beach or over water shall consist of either:
 - a. Recessed railing down-light fixtures, equipped with downward-directed louvers and interior dark-colored, non-reflective baffles, or
 - b. Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source, and externally shielded on the side facing the beach.

Section 66-50. Special Events, Motor Vehicles, and Temporary Lighting

1. Lighting associated with a special event that may directly, indirectly, or cumulatively illuminate the beach shall not be authorized during nighttime in sea turtle nesting season.
2. The operation of all motorized vehicles, except emergency and law enforcement vehicles or those permitted on the beach for sea turtle

conservation or other research and conservation, shall be prohibited on the beach at nighttime during sea turtle nesting season.

3. All temporary construction lighting shall be:
 - a. Long wavelength and fully shielded,
 - b. Turned off during nighttime in sea turtle nesting season, or if temporary lighting is deemed necessary during sea turtle nesting season it shall be allowed from 6:00 am to 9:00 pm, must be restricted to the minimal amount necessary and shall incorporate all the standards of this section,
 - c. Not mounted more than 8 feet above the ground, measured at the bottom of fixture, and
 - d. Restricted to the minimal number of footcandles necessary to conform to the applicable construction safety regulations.
4. Lights used by persons fishing at night must be long-wave length and used in a manner that does not impact nesting sea turtles.

Section 66-51. Beach Lighting Inspector

1. A position, known as the City of Holmes Beach *Beach Lighting Inspector*, is hereby established.
2. It shall be the duty of the Mayor to appoint the *Beach Lighting Inspector*. The *Beach Lighting Inspector* shall have the necessary training and technical knowledge to enable them to effectively carry on the duties of this office.
3. The *Beach Lighting Inspector* shall be responsible for:
 - a. Inspecting the entire beach within the jurisdictional boundaries of the City of Holmes Beach every month during sea turtle nesting season to determine the extent of compliance with this ordinance.
 - b. In the event of the finding of a violation at a particular public or private property, conducting further inspections at the property every night

beginning on the night after the deadline date given on the written notice of violation. These follow-up inspections shall continue until the lighting has been brought into compliance with this ordinance.

4. It shall be unlawful for any person to interfere with, or in any manner hinder the *Beach Lighting Inspector*, or any of their assistants, while in the discharge of their duties under the terms of this ordinance.

5. It shall be unlawful for any person to knowingly conceal or disable any lighting on a property before it has been inspected by the *Beach Lighting Inspector*.

Section 66-52. Notice of Violation

1. Upon finding any violation of this article, the *Beach Lighting Inspector* shall deliver a written notice of the violation of this ordinance to the property owner and direct said owner to promptly remove or cure such lighting arrangement not in compliance with this article.

2. The time allowed for making the repairs shall be stated in the notice and should the responsible party neglect or refuse to remove or cure the unacceptable lighting arrangement within the specified time stated in the notice, the party so offending shall commit a violation of this article and be punished as provided in Section 66-54 of this part.

Section 66-53. Penalties

1. Any person who takes any action or omission in violation of any provision of this article and fails to cure such violation after proper notice is provided, shall be subject to a fine of up to \$250 per day per violation for initial violations, and \$500 per day per violation for repeat violations pursuant to Section 162.09(2)(a), Florida Statutes. All penalties incurred as a result of violation of this article shall continue to accrue until such violations are cured.

2. The City of Holmes Beach shall have the right to encumber such property in violation of this article with a lien for an amount equal to the total amount of fines owed at the time such lien is recorded.

Section 66-54. Conflict With Other Ordinances

If this ordinance conflicts with any other ordinance or requirement of the City of Holmes Beach, unless such ordinance is specifically directed at public safety, then this Division of Chapter 66 shall control during sea turtle nesting season.

Section 3. Severability

If any article, part, or section of this ordinance is invalidated for any reason, the effected portion may be eliminated or modified to correct the reason of invalidation, if feasible without materially altering or negating the ordinance goals and the principles of Sea Turtle Friendly Lighting.

Section 4. Effective Date

This ordinance shall take effect on adoption by the City Commission.

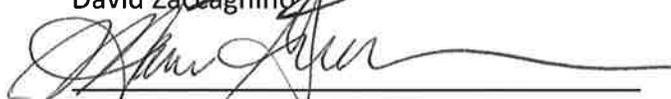
Publication date:

First Reading: 2-25-14
Publication Date: 2-28-14
Second Reading and Public Hearing Date: 3-11-14

PASSED AND ADOPTED this 11th day of March, 2014, by the City Commission of the City of Holmes Beach, Florida, with a quorum present and voting.


Patrick Morton


David Zaccagnino


Marvin Grossman


Judy Titsworth


Jean Peelen

APPROVED BY ME THIS 11 DAY OF March, 2014.


Carmel Monti, Mayor

ATTEST: 
Stacey Johnston, OMC, City Clerk