

1
2
3 **ORDINANCE NO. 20-XX**

4 **AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA**
5 **AMENDING THE CITY OF MARCO ISLAND CODE OF ORDINANCES**
6 **BY AMENDING CHAPTER 54, “WATERWAYS AND BEACHES,”**
7 **ARTICLE V, “SEA TURTLE PROTECTION,” TO PROVIDE**
8 **REGULATIONS CONCERNING LIGHTING FOR BUILDINGS CLOSE**
9 **TO THE BEACHES NECESSARY TO PROTECT SEA TURTLE**
10 **NESTING HABITATS FROM ARTIFICIAL LIGHT; TO PROVIDE**
11 **REGULATIONS RESTRICTING THE PLACEMENT OF BEACH**
12 **FURNITURE IN THE VICINITY OF SEA TURTLE NESTING**
13 **HABITATS; PROVIDING FOR CODIFICATION; PROVIDING FOR**
14 **CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING**
15 **FOR AN EFFECTIVE DATE.**

16
17 **WHEREAS**, Article VIII of the State Constitution and Chapter 166, Florida Statutes,
18 provide that municipalities shall have the governmental, corporate, and proprietary powers to
19 enable them to conduct municipal government, perform municipal functions, and render
20 municipal services, and may exercise any power for municipal purposes, except when expressly
21 prohibited by law; and

22
23 **WHEREAS**, the City Council adopted Ordinance No. 13-05 on February 4, 2013 to
24 adopt regulations to protect threatened and endangered sea turtles that nest along the beaches of
25 Marco Island by safeguarding sea turtles from sources of artificial light and prohibiting the injury
26 or harassment of adult sea turtles, hatchlings, nests, and eggs; and

27
28 **WHEREAS**, as a result of improvements to materials used to provide artificial lighting,
29 the City Council desires to amend the existing sea turtle artificial lighting regulations further; and

30
31 **WHEREAS**, the City Council, in order to further protect sea turtles finds that it is
32 necessary and appropriate to adopt new requirements requiring an approved lighting plan prior to
33 the issuance of a development order or building permit for all new structures, as well as all
34 multifamily, commercial, and industrial structures, new construction and improvements to
35 existing structures landward of the Coastal Construction Control Line as defined by Section
36 161.053, Fla.Stat.; and

37
38 **WHEREAS**, the City Council, in order to further protect sea turtles finds that it is
39 necessary and appropriate to adopt regulations related to lighting of outdoor areas, parking areas,
40 pool areas, pier structures, dune walkovers, special events, and construction taking place on , or
41 adjacent to the beach; and

42
43 **WHEREAS**, the City Council, in order to protect sea turtles finds that it is necessary and
44 appropriate to adopt regulations prohibiting the placement of beach furniture in the vicinity of
45 sea turtle nesting habitat, and to further regulate the practice of beach raking during the sea turtle

46 nesting season; and

47
48 **WHEREAS**, the City Council finds that this Ordinance serves a municipal and public
49 purpose, and is in the best interest of the health, safety, and welfare of the citizens and residents
50 of the City of Marco Island.

51
52 **NOW, THEREFOR, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY**
53 **OF MARCO ISLAND:**

54
55 **Section 1. Recitals.**

56
57 The foregoing “WHEREAS” clauses are true and correct and reflective of the legislative
58 intent underlying this Ordinance and are hereby ratified and made a specific part of this
59 Ordinance.

60
61 **Section 2. Chapter 54, “Waterways and Beaches,” of the City Code of Ordinances is**
62 **Amended.**

63
64 That Chapter 54, “Waterways and Beaches,” Article V, “Sea Turtle Protection,” of the
65 City of Marco Island Code of Ordinances be, and the same is hereby amended to read as
66 follows:

67
68 **Chapter 54**

69
70 **Article V. SEA TURTLE PROTECTION**

71
72 **Sec. 54-141. Purpose and intent.**

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

78
79 The purpose of this Article is to protect nesting and hatchling sea turtles on the beaches in
80 the City of Marco Island (City) by ensuring that their nesting habitat is not degraded by
81 artificial light. The objective of the Article is to ensure artificial light does not interfere
82 with sea turtle nesting and hatching events through the appropriate design and
83 implementation of coastal lighting systems. In order to further the objective of full
84 implementation, this Article also includes provisions designed to educate residents and
85 beach users in the City on the benefits of appropriate coastal lighting and provides for
86 weekly inspections to ensure compliance with the acceptable lighting standards.

87
88 **Sec. 54-142. Applicability.**

89 ~~For the purposes of this ordinance, the beaches of Marco Island shall be designated as~~
90 ~~those sandy areas facing the Gulf of Mexico, including Coconut Island, the dynamic sand~~
91 ~~bars and offshore islands that form within the City's incorporated limits, and the inlet~~
92 ~~shorelines commencing at Caxambas Pass to the south and end on Hideaway Beach to the~~
93 ~~north at Collier Creek.~~

94 The provision of this Article shall apply to all properties within the City that may produce
95 artificial light directly, indirectly, or cumulatively visible from any portion of the beach,
96 regardless of whether those properties are beachfront properties; and to all buildings and
97 related infrastructure, including landscaping, as well as all other activities that may
98 adversely impact sea turtles.

99
100 **Sec. 54-143. Definitions.**

101
102 The following words, terms, and phrases, when used in this article, shall have the
103 meanings ascribed to them in this section, except where the context clearly indicates a
104 different meaning:

105
106 Artificial Light means the light emanating from any human-made device.

107
108 Beach means the zone of unconsolidated material that extends landward from the mean
109 low water line to the place where there is marked change in material or physiographic
110 form, or to the line of permanent vegetation. ~~Beach means the sand portion of land lying~~
111 ~~seaward of a seawall or line of permanent vegetation and landward of the mean high-~~
112 ~~water line.~~

113
114 Cumulatively Visible means light from numerous artificial light sources on a single
115 property that as a group are directly or indirectly visible to an observer standing
116 anywhere on the beach.

117
118 Directly Visible means visibility of the glowing elements, lamps, globes, or reflectors of
119 an artificial light source by an observer standing anywhere on the beach.

120
121 Disorientation means an event caused by direct, indirect, or cumulative artificial lighting
122 on sea turtle nesting habitat resulting in the disruption in the ability of nesting sea turtle
123 females and sea turtle hatchlings to find the sea from the beach.

124
125 False Crawl- Sea turtles leave the security of the ocean and crawl up onto Florida
126 beaches at night during the summer to dig a hole and lay their eggs. Sometimes they
127 crawl back to the water without digging a nest and without laying eggs. This is called a
128 “false crawl.”

129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168

Foot Candle means the English unit for measuring illuminance; the uniform illumination of a surface one foot away from a point source of one candela; one lumen per square foot; equal to 10.76 lux.

Frontal Dune means the first natural or man-made mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.

Full Cutoff means a lighting fixture constructed in such a manner that no 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 at or above 90° as determined by photometric test or certified by the manufacturer.

Fully Shielded means a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible from the beach. Any structural part of the light fixture providing this shielding must be permanently affixed.

Handheld Devices include any portable device that can be carried and held in one's palm. A handheld can be any computing or electronic device that is compact and portable enough to be held and used in one or both hands. A handheld may contain cellular communication, but this category can also include other computing devices.

Hatchling is a reptile, young bird, or fish recently emerged from an egg.

Indirectly Visible means visibility of reflected light as a result of glowing elements, lamps, globes, or reflectors of an artificial light source which is visible to an observer standing anywhere on the beach without the light source being directly visible.

Lighting Plan means plan view and cross section drawings describing location, number, wattage, wavelength, elevation, orientation, fixture cut sheets, and all types of proposed exterior artificial light sources, including, but not limited to, artificial lighting affixed to permanent structures, outdoor lighting, pool lighting, and internally or externally lighted signs.

Long Wavelength means a luminaire emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers. Lamps that meet the definition of Long Wavelength through the use of filters, gels, or lenses are not permitted.

169 Nesting Season means the nesting period for sea turtles is from May 1 through October
170 31 of each year. Nesting season may be extended before or after these dates on an annual
171 basis based on nesting activity observed in the City of Marco Island.

172

173 Sea turtle nesting and hatching season means May 1 through October 31 yearly.

174

175 Nighttime means the locally effective time period between sunset and sunrise.

176

177 Non-egress Lighting means lighting that is not being used to light a distinct path or meet
178 minimum requirements for emergency egress, including but not limited to decorative
179 lights (e.g. Christmas lights, strobe lights, string lights, etc.), balcony lights, ceiling fan
180 lights, landscape lights, and uplights.

181

182 Outdoor Area means any portion of a property that could have an artificial light source
183 not attached to a permanent structure, including but not limited to pathway lighting,
184 landscape lighting, pool lighting, etc.

185

186 Photometry is the science of the measurement of light, in terms of its perceived
187 brightness to the human eye. It is distinct from radiometry, which is the science of
188 measurement of radiant energy (including light) in terms of absolute power.

189

190 Pier Structures are a platform or similar structure supported on pillars or girders, or
191 similar system, leading out from the shore into a body of water, used as a landing stage
192 for boats, for fishing, observation or other nautical purposes.

193

194 Sea Turtle means any turtle, including all life stages from egg to adult, of these species:
195 Green (*Chelonia mydas*), Leatherback (*Dermochelys coriacea*), Loggerhead (*Caretta*
196 *caretta*), Hawksbill (*Eretmochelys imbricata*), and Kemp's Ridley (*Lepidochelys kemp*).
197 For the purposes of this ordinance, the term sea turtle is synonymous with marine turtle.

198

199 Sea Turtle Nesting Habitat means all sandy beaches adjoining the waters of the Atlantic
200 Ocean, the Gulf of Mexico, and the Straits of Florida in all coastal counties and all inlet
201 shorelines of those beaches. Nesting habitat includes all sandy beach and unvegetated or
202 vegetated dunes immediately adjacent to the sandy beach and accessible to nesting
203 female turtles.

204

205 Special Event is an event such as a beach activity, sports, religious, and community event,
206 or other similar events that requires preparation, planning, and municipal resources, and
207 may require public area or roadway closures, and often a city Permit.

208

209 Take means an act that actually kills or injures marine turtles and includes significant
210 habitat modification or degradation that kills or injures marine turtles by significantly
211 impairing essential behavioral patterns, such as breeding, feeding, or sheltering. ~~Take or~~
212 ~~taking~~ means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or
213 an attempt to engage in any such conduct.

214
215 Temporary Lighting means any non-permanent light source that may be hand-held or
216 portable including but not limited to tiki torches, lanterns, flashlights (including cell
217 phone flashlights), candles, flash photography, etc.

218
219 Tinted glass means glass modified via tinting, film, or other material to reduce the inside
220 to outside light transmittance value to 15%.

221
222 **Sec. 54. 144. Annual Public Notice**

223
224 At least thirty (30) days prior to the commencement of every sea turtle nesting season, the
225 City of Marco Island shall provide written notice summarizing the provisions contained
226 in this Article to each property adjacent to the beach.

227
228 **Sec. 54-144. New Development.**

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

233 1. Outdoor lighting shall be the minimum necessary for security and safety.
234 Floodlights and landscape or accent lighting shall be prohibited.

235 2. All lighting including wall-mounted fixtures, pole lighting, lights on balconies,
236 and any other type of lighting not specifically referenced by this section, shall be of low
237 intensity and shall be fitted with hoods or positioned so that the light sources or any
238 reflective surface illuminated by such sources are not visible from the beach.

239 3. Low profile luminaries shall be used in parking lots and such lighting shall be
240 fitted with hoods or positioned so that the light sources or any reflective surfaces
241 illuminated by such sources do not create shadows on the beach.

242 4. Dune crosswalks shall utilize low profile shielded luminaries directed and
243 positioned so that light sources or any reflective surfaces illuminated by such sources are
244 not visible from the beach. Dune crossover lighting shall be limited to the area landward
245 of the primary dune.

246 5. Windows that are visible from the beach shall be tinted or glazed to achieve an
247 industry approved light transmittance value of 45 percent or less. Such transmittance
248 shall be limited to the visible spectrum (400 to 700 nanometers) and shall be measured as

249 the percentage of light that is transmitted through the glass, inside to outside.

250 6. ~~Temporary security lights at construction sites shall not be mounted more than 15~~
251 ~~feet above the ground. Light sources or any reflective surfaces illuminated by such~~
252 ~~sources shall not be visible from the beach.~~

253
254 **Sec. 54-145. Existing Development.**

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

258
259 1. ~~All exterior lights shall be turned off after 9:00 p.m. between May 1 and October~~
260 ~~31, of each year, or fitted with a hood or positioned so that the light sources or any~~
261 ~~reflective surfaces illuminated by such sources are not be visible from the beach.~~

262 2. ~~Lights illuminating dune crosswalks shall be turned off after 9:00 p.m. between~~
263 ~~May 1 and October 31, of each year, and must be modified to conform to the~~
264 ~~requirements for new development in accordance with this ordinance.~~

265 3. ~~When high intensity lighting is required for security or emergency exit lighting,~~
266 ~~then low pressure sodium vapor luminaries shall be used and fitted with a hood or~~
267 ~~positioned so that the light sources or any reflective surfaces illuminated by such sources~~
268 ~~are not be visible for the beach. Required lighting shall be consistent with provisions in~~
269 ~~the Fire Prevention and Protection Ordinance, 98-08, as amended.~~

270
271 ~~To reduce or eliminate the negative effects of interior light emanating from doors or~~
272 ~~windows within line of sight of the beach, one of the following actions shall be taken~~
273 ~~during sea turtle nesting season:~~

- 274
275 a) ~~Windows shall be tinted or glazed to achieve an industry approved light~~
276 ~~transmittance value of 45 percent or less; or~~
277 b) ~~Window treatments such as blinds or curtains shall be used to prevent~~
278 ~~interior light from emanating outside; or~~
279 c) ~~Lighting sources such as lamps shall be relocated away from windows,~~
280 ~~and turned off after 9:00 p.m.~~

281
282 **Sec. 54-146. Publicly owned lighting.**

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

286
287 **Sec. 54-145. Exterior Lighting Affixed to New Structures, New Construction, and**
288 **Improvements to Existing Structures**

289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328

(a) All artificial lighting affixed to the exterior of new permanent structures, construction or additions shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.

(b) All non-egress lighting affixed to the exterior of permanent structures shall not be directly, indirectly, or cumulatively visible from any portion of the beach.

(c) Lighting at egress points shall be limited to the minimum number of fixtures and foot-candles necessary to meet federal, state, and local safety requirements.

(d) Locations including but not limited to stairwells, elevators, parking garages, or courtyards shall not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach. Window film, tinting, light screens, shades or curtains shall be used to block visibility of interior lights from the beach. Light screens shall be used on open or enclosed staircases on the seaward or shore-perpendicular side of a building or for parking garages to limit visibility of lights from the nesting beach.

(e) All glass windows, walls, railings and doors on the seaward and shore-perpendicular sides of any new construction shall utilize glass with an inside to outside light transmittance value of 15% or less.

(f) Emergency lights shall be on a separate circuit and activated only during power outages or other situations in which emergency lighting is necessary for public safety.

(g) Prior to issuance of a development order and/or building permit for all new structures, new construction and improvements to existing structures seaward of the Coastal Construction Control Line as defined by §161.053, *Florida Statute*, a City of Marco Island approved lighting plan meeting the provisions of this Article is required.

(h) Prior to issuance of a development order and/or building permit for all multifamily, commercial and industrial new structures, new construction and improvements to existing structures landward of the Coastal Construction Control Line as defined by §161.053, *Florida Statute*, a City of Marco Island approved lighting plan meeting the provisions of this Article is required.

(i) Prior to the issuance of a certificate of occupancy (CO) or a certificate of completion (CC), the exterior lighting of new development shall be inspected after dark by the City of Marco Island, with all exterior lighting turned on, to determine compliance with the

329 approved lighting plan and this Article.

330
331 **Sec. 54-146 Outdoor Areas**

332
333 (a) All lighting of outdoor areas shall be long wavelength, downward directed, full cutoff,
334 fully shielded and mounted as close to the ground or finished floor surface as possible to
335 achieve the required foot-candles.

336
337 (b) All pathway lighting shall utilize low-level fixtures that do not exceed 42 inches in
338 height. Fixtures shall be downward directed and utilize long wavelength lamps and
339 beachside shields.

340
341 (c) All non-egress outdoor lighting shall not be directly, indirectly, or cumulatively
342 visible from any portion of the beach.

343
344 (d) Internally or externally lighted signs shall not be located on the seaward and shore-
345 perpendicular sides of any structures, and shall not produce light that is directly,
346 indirectly, or cumulatively visible from any portion of the beach.

347
348 (e) Ponds and fountains on the seaward and shore-perpendicular sides of any structures
349 shall not produce light that is directly, indirectly, or cumulatively visible from any
350 portion of the beach.

351
352 (f) Televisions shall be located landward of the dune and shall be shielded or positioned
353 such that they are not directly, indirectly, or cumulatively visible from the beach.

354
355 (g) Handheld and other portable temporary lighting shall not be directed toward or used
356 in a manner that disturbs sea turtles or other coastal wildlife.

357
358 **Sec. 54-147 Parking Areas**

359
360 (a) All lighting of parking areas shall be long wavelength, downward directed, full cutoff,
361 fully shielded, and mounted to the minimum level required to maintain compliance with
362 federal, state and local law.

363
364 (b) Parking area lighting shall be shielded from the beach via vegetation, natural features,
365 or artificial structures rising from the ground. These shall prevent artificial light sources,
366 including but not limited to vehicular headlights, from producing light that is directly,
367 indirectly, or cumulatively visible from any portion of the beach.

369 (c) Lighting of parking areas shall produce no more lighting than the minimum
370 requirement as outlined by federal, state and local law.

371
372 (d) Lighting of parking areas shall consist of either:

373 (1) Ground-level downward-directed fixtures, equipped with interior dark
374 non-reflective baffles or louvers, mounted either with a wall mount, on
375 walls or piles, facing away from the beach, or

376
377 (2) Bollard-type fixtures, which do not extend more than 42 inches above
378 the adjacent floor or deck, measured from the bottom of fixture, equipped
379 with downward-directed louvers that completely hide the light source, and
380 externally shielded 180 degrees on the side facing the beach, or

381
382 (3) Pole-mounted lights, if required, which shall:

383
384 a. Only be used in parking areas when mounting the lights at lower
385 elevations cannot practicably comply with minimum light levels
386 set forth in applicable federal and state laws designed to protect
387 public safety.

388
389 b. Located on the landward sides of buildings and shall not
390 produce light that is directly, indirectly, or cumulatively visible
391 from any portion of the beach.

392
393 c. Mounted at the minimum height necessary to meet the minimum
394 light level requirement.

395
396 d. Downward-directed onto non-reflective surfaces.

397
398 (4) Equipment yards, storage yards, and temporary security lights shall
399 also adhere to the lighting restrictions contained herein.

400
401 **Sec. 54-148 Pool Areas**

402
403 (a) Lighting of pool decks, pool facilities, swimming pools, and spas shall be long
404 wavelength, downward directed, full cutoff, fully shielded and mounted as close to the
405 ground or finished floor surface as possible to achieve the required foot-candles.

406
407 (b) Lighting of the pool water surfaces, and the pool wet deck surfaces shall comply with
408 the minimum light levels set forth in applicable federal and state laws designed to protect

409 public safety.

410
411 (c) Above-water lighting of pool decks, pool facilities, swimming pools, and spas shall
412 otherwise adhere to the applicable requirements for acceptable light fixtures set forth
413 herein

414
415 (d) Underwater lighting of pools or spa light shall:

416
417 (1) Be mounted horizontally in the wall,

418
419 (2) Not produce light that is directly, indirectly, or cumulatively visible
420 from any portion of the beach, and

421
422 (3) Shall comply with minimum light levels set forth in applicable federal
423 and state laws designed to protect public safety.

424
425 **Sec. 54-149 Pier Structures**

426
427 (a) Lighting of pier structures projecting over the beach or over water shall be
428 long wavelength, downward directed, and fully shielded.

429
430 (b) Lighting of pier structures projecting over the beach, or over water, shall be
431 mounted no higher than 42 inches above the deck surface. These shall be directed
432 onto the deck surface only, preventing light pollution or light spillage beyond the
433 walking surface.

434
435 (c) Lighting of pier structures projecting over the beach or over water shall
436 comply with minimum light levels set forth in applicable federal and state laws
437 designed to protect public safety.

438
439 **Sec. 54-150 Dune Walkovers and Beach Access Points**

440
441 (a) Lighting of beach access points shall be restricted to that portion of the
442 structure landward of the dune. All lighting of beach access points shall be long
443 wavelength, downward directed, full cutoff and fully shielded and shall not be
444 directly, indirectly, or cumulatively visible from the beach.

445
446 (b) Lights are allowable on dune walkovers or elevated boardwalks only as
447 required for building code purposes and may only be installed landward of the
448 frontal dune. Walkover lighting shall not be directly, indirectly or cumulatively

449 visible from the beach.

450
451 **Sec. 54-151 Special Events, Vehicles, Raking, Temporary Lighting, and**
452 **Beach Furniture**

453
454 (a) All special events or construction taking place on or adjacent to the beach
455 require a permit from the City of Marco Island and may require a permit from the
456 Florida Department of Environmental Protection.

457
458 (1) Lighting associated with a special event that may directly, indirectly,
459 or cumulatively be visible from any portion of the beach shall not be
460 authorized at nighttime during sea turtle nesting season.

461
462 (2) Fires associated with a special event, including cooking fires, bonfires
463 and fire pits, if permitted by the City of Marco Island, shall be shielded
464 with an opaque structure or partition, and positioned such that the flame is
465 not directly, indirectly, or cumulatively visible from any portion of the
466 beach.

467
468 (b) The operation of all vehicles, except emergency, law enforcement, code
469 enforcement, or community service officer vehicles or those permitted on the
470 beach for sea turtle conservation in accordance with Section 379.2431(1), Florida
471 Statutes, as may be amended, or other research and conservation, shall be
472 prohibited on the beach at nighttime during sea turtle nesting season.

473
474 (c) Beach raking activities during sea turtle nesting season, if permitted by the
475 City of Marco Island, shall not:

476
477 (1) Operate at nighttime.

478
479 (2) Begin before 9:00 a.m. or before the completion of daily
480 monitoring for turtle nesting activity by the Florida Fish and Wildlife
481 Conservation Commission (FWC) authorized marine turtle permit holder,
482 whichever occurs first.

483
484 (3) Occur within ten (10) feet of any marked sea turtle nest.

485
486 (d) During sea turtle nesting season, temporary work zone lighting for roadway
487 construction and during declared emergencies shall be directed away from the
488 beach to avoid illumination of or direct visibility from the beach. Work zone

489 luminaires shall be shielded to avoid lighting areas outside of the immediate
490 construction area.

491

492 (e) All other temporary construction lighting shall be:

493

494 (1) Inclusive of all the standards herein, including utilizing fixtures that
495 are long wavelength, downward directed, full cutoff, and fully shielded so
496 light is not directly or indirectly visible from the beach; and

497

498 (2) Turned off during nighttime in sea turtle nesting season, or if
499 temporary lighting is deemed necessary during sea turtle nesting season it
500 shall only be allowed from 6:00 am to 9:00 pm, must be restricted to the
501 minimal amount necessary, and shall incorporate all the standards herein;
502 and

503

504 (3) Mounted less than eight feet above the adjacent floor or deck,
505 measured from the bottom of fixture, and

506

507 (4) Restricted to the minimal number of foot-candles necessary to conform
508 to the applicable construction safety regulations.

509

510 (f) Man-made objects shall not obstruct sea turtle nesting habitat during nesting
511 season during nighttime. All obstructions, including, but not limited to beach
512 furniture, cabanas, umbrellas, tents, personal watercraft, bikes, vehicles, and
513 boats, shall be removed from sea turtle nesting habitat between the hours of 9:00
514 p.m. and 9:00 a.m. during sea turtle nesting season.

515

516 (g) During sea turtle nesting season, permitted beach furniture vendors shall not
517 place beach furniture onto sea turtle nesting habitat before 9:00 a.m., or prior to
518 the completion of daily monitoring for sea turtle nesting activity by the FWC
519 authorized marine turtle permit holder, whichever comes first.

520

521 (h) No beach furniture or other man-made object shall be placed within ten (10)
522 feet of a marked sea turtle nest.

523

524 **Sec. ~~54-147~~54-152. Unlawful to kill, molest, or injure sea turtles.**

525

526 (a) It shall be unlawful for any person, firm, or corporation shall to kill, molest,
527 cause a disorientation or cause direct or indirect injury to any species of sea turtle
528 or sea turtle hatchlings, their nests, and/or eggs in the City of Marco Island or

529 within its jurisdictional waters. It shall be unlawful to take, collect or possess any
530 part of a sea turtle or eggs.

531
532 (b) It shall be unlawful for any person, firm, or corporation to relocate or possess
533 a sea turtle or eggs without first obtaining a permit from the Florida Department
534 of Environmental Protection (FDEP). A person, not take, disturb, mutilate,
535 destroy, cause to be destroyed, transfer, sell, offer to sell, molest, or harass any
536 sea turtle species or hatchling, or parts thereof, or the eggs or nest of any sea turtle
537 species.

538
539 (c) When a sea turtle nest is created, a permitted sea turtle monitor posts it on the
540 beach with stakes, flagging tape and signage. It shall be unlawful to enter the
541 posted nest area or impact the posted nest area in any manner. A minimum of a
542 25-foot perimeter with no activity within should be given to the posted nest area
543 for protection.

544
545 (d) It shall be unlawful any person, firm, or corporation to conduct sustained
546 flashlight use, mobile phone light use or electronic light use, to use flash
547 photography or lantern or other source of light on the beach after 9 p.m. during
548 sea turtle nesting season.

549
550 **Sec. 54-148153. Construction during nesting season.**

551 It shall be unlawful to construct any structure, add any fill, mechanically clean
552 any beach, or grade any soil material within 100 feet of the nesting zone of a
553 beach where sea turtles nest or may nest during the nesting season. Construction
554 activities shall not interfere with sea turtle nesting, shall preserve, or replace any
555 native vegetation on the site, and shall maintain the natural existing beach profile
556 and minimize interference with the natural beach dynamics and function. All
557 rules, guidelines, best management practices required

558
559 **Sec. 54-149154. - Violations.**

560 Violation of the provisions of this article or failure to comply with any of its
561 requirements shall constitute a misdemeanor. Any person or firm who violates
562 this article or fails to comply with any of its requirements shall upon conviction
563 thereof be fined, or imprisoned, or both, as provide by law. Each day such
564 violation continues shall be considered a separate offense. Additionally, each sea
565 turtle or eggs that are killed injured, or molested shall constitute a separate
566 violation. Any other person, who commits, participates in, assists in, or maintains
567 such violation may each be found guilty of a separate offense and suffer the
568 penalties herein provided. The city, in addition to the criminal sanctions contained

569 herein, may take any other appropriate legal action, including, but not limited to,
570 injunctive action, to enforce the provisions of this article.

571
572 **Sec. 54-174. - Jurisdiction and enforcement.**

573 (a) This article is enforceable by any duly authorized law enforcement officer,
574 City of Marco Island code enforcement officer or designee, the Marco Island
575 Police Department, the Division of Law Enforcement of the Fish and Wildlife
576 Conservation Commission and its officers, the Collier County Sheriff's Office,
577 and any other state or federally authorized law enforcement agency, all of whom
578 may order the removal of vessels deemed to be an interference or a hazard to
579 public safety, enforce the provisions of this article, or cause any inspections to be
580 made of all vessels in accordance with this article and the Florida Statutes.

581
582 (b)Such officers shall have the power and duty to issue such orders and to make
583 such investigations, reports, and arrests in connection with the provisions of this
584 article, or cause any inspections to be made of all vessels in accordance with this
585 article and the Florida Statutes.

586
587 (c) Any official with jurisdiction is authorized and empowered to make
588 inspections at reasonable hours of all activities regulated by this article in order to
589 ensure compliance with the provisions of this article. Any person who violates
590 any provision of this chapter, or of any regulation or guideline that implements
591 this chapter, shall be ordered immediately to stop all work.

592
593 **Sec. 54-175. - Penalties.**

594
595 ~~(a)Any person or persons, firm or corporation, or any agent thereof, who violates~~
596 ~~any of the provisions of any article of this chapter shall be punished by a fine not~~
597 ~~exceeding \$500.00, or imprisonment not exceeding 60 days, or by both such fine~~
598 ~~and imprisonment. Each day any violation of any provision of any article of this~~
599 ~~chapter shall continue shall constitute a separate offense.~~

600 ~~(b)In addition to the penalties provided in paragraph (a) of this section, any~~
601 ~~condition caused or permitted to exist in violation of any of the provisions of this~~
602 ~~Code shall be deemed a public nuisance and may be abated by the city as~~
603 ~~provided by law, and each day that such condition continues shall be regarded as~~
604 ~~a new and separate offense.~~

605
606 (a) In addition to and as a supplement to any civil and criminal penalties
607 provided by state and federal statutes, and the City's Code of Ordinances, the
608 following shall apply:

609
610 (1) Any person who is found to have violated any provision of this
611 article, shall be, upon conviction, subject to the following penalties:

612
613 a. First offense—Minimum of \$150.00, not to exceed \$500.00
614 for each offense as provided for in F.S. § 162.22;

615
616 b. Second offense—Minimum of \$500.00, not to exceed
617 \$1,500.00, as provided for in F.S. § 162.09; and

618
619 c. Third offense—Minimum of \$1,500.00, not to exceed
620 \$2,000.00, as provided for in F.S. § 162.09.

621
622 (2) Each separate violation shall constitute a separate offense, and upon
623 conviction of a specified ordinance violation, each day of violation shall
624 constitute a separate violation.

625
626 (3) In addition to the penalties provided herein, the city may recover
627 reasonable attorney's fees, court costs, court reporter's fees and other expenses of
628 litigation by appropriate suit at law against the person found to have violated this
629 division or the orders, rules, regulations and permits issued hereunder.

630
631 **Section 3. Codification.**

632
633 It is the intention of the City Council, and it is hereby ordained, that the amendments to
634 the City of Marco Island Code of Ordinances made by this Ordinance shall constitute
635 new provisions within the Code of Ordinances, and that the sections of this Ordinance
636 may be renumbered and re-lettered as necessary, and that the word “Ordinance” may be
637 changed to “Section”, “Article” or other appropriate word.

638
639 **Section 4. Conflicts.**

640
641 All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict
642 with the provisions of this Ordinance are hereby superseded and resolved to the extent of
643 any conflict in favor of the provisions of this Ordinance.

644
645 **Section 5. Severability.**

646
647 If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to
648 be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding
649 shall not affect the validity of the other or remaining terms, sections, clauses, sentences or
650 phrases portions of this Ordinance, and this Ordinance shall be read and applied as if the
651 invalid, illegal, or unenforceable term, provision, clause, sentence or section did not exist.

652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681

Section 6. Effective Date.

This Ordinance shall become effective upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this _____
day of _____, 2020.

CITY OF MARCO ISLAND

By: _____
Erik Brechnitz, Chair

Attest:

By: _____
Laura M. Litzan, City Clerk

Reviewed for legal sufficiency:

By: _____
Alan L. Gabriel, City Attorney