Rule 7.05 Decorum. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.

Rule 6.05 Agenda. The good and welfare portion of the agenda set for 8:15 p.m. shall be restricted to discussion on subjects not already specifically scheduled on the agenda for discussion and debate. In no event shall this portion of the agenda be allotted more than 45 minutes with each speaker to be given no more than three minutes, unless by vote of a majority of the members of the commission present, it is agreed to extend the time frames. Likewise, commission members shall be restricted to speaking three minutes each unless an extension is granted in the same manner as set forth in the prior sentence.

Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Town Clerk prior to engaging in lobbying activities per Town Code Sec. 2-233. "Lobbyist" specifically includes the principal, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term "lobbyist" specifically excludes any person who only appears as a representative of a not-for-profit corporation or entity (such as charitable organization, a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support or opposition to any item.

Per Miami Dade County Fire Marshal, the Commission Chambers has a maximum capacity of 99 people. Once reached this capacity, people will be asked to watch the meeting from the first floor.

* Denotes agenda items as “must haves” which means there will be significant impacts if the item is not addressed tonight. If these items have not been heard by 10 p.m., the order of the agenda will be changed to allow them to be heard.
1. Opening
   A. Call to Order
   B. Roll Call of Members
   C. Pledge of Allegiance

2. Ordinances, Resolutions and Discussion Items

   A. Cone of Silence Ordinance – Guillermo Olmedillo, Town Manager

      AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN CODE BY AMENDING SECTION 3-17, “OPT OUT INVOKED” OF CHAPTER 3 “PURCHASING” TO IMPLEMENT A CONE OF SILENCE PROVISION FOR PROCUREMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR EFFECTIVE DATE.

   B. Lighting Regulations for Marine Turtle Protection – Guillermo Olmedillo, Town Manager

      AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN CODE BY CREATING ARTICLE VI, “LIGHTING REGULATIONS FOR MARINE TURTLE PROTECTION” OF CHAPTER 34 “ENVIRONMENT”; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR EFFECTIVE DATE.

   C. Update on Curb Enhancement at Abbott and 88 Street [Verbal]– Guillermo Olmedillo, Town Manager

   D. Update on “Share the Road Project” Safety and Walkability Proposal [Verbal]– Guillermo Olmedillo, Town Manager

   E. Board and Committee Appointments [Verbal]– Sandra Novoa, MMC, Town Clerk
      • Design Review Board – At Large
      • Tourist Board – Commissioner Barry Cohen
      • Sustainability Subcommittee – Commissioner Karukin
3. Adjournment

Respectfully submitted,

[Signature]

Guillermo Olmedillo
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.


TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.
Agenda Item #: 2A
Date: May 22, 2018
Subject: AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN CODE BY AMENDING SECTION 3-17, “OPT OUT INVOKED” OF CHAPTER 3 “PURCHASING” TO IMPLEMENT A CONE OF SILENCE PROVISION FOR PROCUREMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR EFFECTIVE DATE.

Background:

At the April 10, 2018 Town Commission meeting, the Town Commission directed the preparation of an ordinance providing for a cone of silence applicable to the Town’s competitive solicitation or procurement process (“Ordinance”). Currently, Chapter 3, Purchasing, of the Town Code, does not contain a cone of silence or any restrictions on communications between potential proposers and bidders and Town Commissioners and staff during the pendency of a solicitation. At first reading of the Ordinance on May 8, 2018, the Commission directed changes to the Ordinance as detailed below.

Analysis:

The attached Ordinance for second reading adopts a cone of silence process for Town solicitations and procurements of goods and services. The cone of silence will promote integrity, efficiency, fair competition and ease in the competitive solicitation and procurement process by prohibiting and regulation certain communications between a proposer or bidder and Town Commissioners and staff during the pendency of a solicitation and prior to award of a contract by the Town Commission. The attached Ordinance is similar to the cone of silence provisions contained in Miami-Dade County’s Code Section 2.11.1(t).

As directed by the Town Commission at first reading on May 8, 2018, the attached Ordinance for second reading clarifies the definition of “Cone of Silence” in Section 3-17(a) to any competitive bid or solicitation for a purchase exceeding $25,000 and clarifies in Section 3-17(d)(8) (Exemptions to applicability) that the cone of silence shall not apply to solicitations or
procurements that are exempt under Chapter 3, Purchasing, of the Town Code (such as emergency purchases, sole source and purchases made pursuant to other governmental contracts).

**Budget Impact:**

The Town will need to implement, notice and monitor compliance with the cone of silence requirements for each applicable solicitation thereby necessitating staff time and resources, including the Town Manager, Town Clerk and staff. Additionally, applicability and interpretation of the newly enacted cone of silence provision may require the advice and counsel of the Town Attorney to ensure compliance with the Ordinance.

**Staff Impact:**

Staff time and coordination by the Town Manager and Town Clerk to notice and ensure compliance with the cone of silence provisions of the Ordinance where applicable to solicitations.

**Recommendation:**

It is recommended that the Town Commission adopt the Ordinance on second reading, as revised, amending the Code to implement a cone of silence for the procurement process of goods or services for the Town.

Guillermo Olmedillo, Town Manager
ORDINANCE NO. 2018 - 

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN CODE BY AMENDING SECTION 3-17, "OPT OUT INVOKED" OF CHAPTER 3 "PURCHASING" TO IMPLEMENT A CONE OF SILENCE PROVISION FOR PROCUREMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Town of Surfside ("Town") is committed to efficiency and integrity in the competitive solicitation process for procuring goods and services for the Town; and

WHEREAS, the purpose and intent of these regulations is to implement a cone of silence provision applicable to Town procurements; and

WHEREAS, the regulations intended effect is to protect the integrity, fair competition and ease of the competitive procurement process; and

WHEREAS, Chapter 3 of the Town's Code of Ordinances ("Code") pertains to the purchasing and the procurement process of goods and services on behalf of the Town; and

WHEREAS, the Town Commission wishes to amend Chapter 3, Purchasing, to adopt and implement a cone of silence provision applicable to procurements, similar to the process set forth in the Miami-Dade County Section 2.11.1(1); and

WHEREAS, the Town Commission finds that this Ordinance is in the best interests of the Town.

NOW, THEREFORE, THE COMMISSION OF THE TOWN OF SURFSIDE HEREBY ORDAINS:

Section 1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Town Code Amended. The Code of the Town of Surfside, Florida Code Section 3-17 "Opt Out Invoked" of Chapter 3 "Purchasing" is hereby amended as follows:

Section 3-17. Opt out invoked.

Pursuant to Miami-Dade County Code Section 2.11.1(1)(d), the provisions of Section 2-11.1(1), "Cone of Silence," of the Miami-Dade County Code shall not apply to the Town
Section 3-17- Cone of silence.

(a) Definition. "Cone of silence," as used herein, means a prohibition on any communication regarding a competitive bid or solicitation for a purchase exceeding $25,000.00, including but not limited to, a particular request for proposal ("RFP"), request for qualification ("RFO"), request for expression of interest ("RFEI") or bid (hereinafter a "Solicitation").

between:

(1) A potential respondent, vendor, service provider, proposer, bidder, lobbyist, or consultant, and

(2) The Town commissioners, Town's staff including, but not limited to, the Town Manager and his or her staff, any member of the Town's selection or evaluation committee.

(b) Restriction; notice. A cone of silence shall be imposed upon each RFP, RFO and bid Solicitation after the advertisement of said RFP, RFO and bid Solicitation. At the time of imposition of the cone of silence, the Town Manager or his or her designee shall provide for public notice of the cone of silence by posting a notice at the Town hall and/or electronically, and shall include in any public solicitation for goods or services a statement disclosing the requirements of this section.

(c) Termination of cone of silence. The cone of silence shall terminate at the beginning of the Town commission meeting at which the Town Manager makes his or her written recommendation to the Town commission for award of a contract. However, if the Town commission refers the Manager's recommendation back to the Manager or staff for further review, the cone of silence shall be reimposed until such time as the Manager makes a subsequent written recommendation.

(d) Exceptions to applicability. The provisions of this section shall not apply to:

(1) Oral communications at pre-bid conferences;

(2) Oral presentations before selection or evaluation committees;

(3) Public presentations made to the Town commissioners during any duly noticed public meeting

(4) Written communications at any time with any Town employee, unless specifically prohibited by the applicable RFP, RFO and bid Solicitation documents. The
respondent, bidder or proposer shall file a copy of any written communication with the
Town Clerk. The Town Clerk shall make copies available to any person upon request;

(5) Written communications regarding a particular RFP, RFO and bid Solicitation
between a potential respondent, vendor, service provider, proposer, bidder, lobbyist or
consultant and the Town's purchasing agent or Town employee designated responsible
for administering the procurement process for such RFP, RFO and bid Solicitation,
provided the communication is limited strictly to matters of process or procedure
already contained in the corresponding solicitation document;

(6) Communications with the Town attorney and his or her staff;

(7) Duly noticed site visits to determine the competency of respondents regarding a
particular solicitation during the time period between the opening of solicitations and
the time the Town Manager makes his or her written recommendation;

(8) Any emergency procurement of goods or services pursuant to the Town Code Any
solicitation or procurement which is exempt from the competitive bidding procedures as set
forth in Sections 3-12 and 3-13 of this chapter;

(9) Responses to the Town's request for clarification or additional information;

(10) Contract negotiations during any duly noticed public meeting;

(11) Written communications to enable Town staff to seek and obtain industry comment
or perform market research, provided all communications related thereto between a
potential respondent, vendor, service provider, proposer, bidder, lobbyist, or
consultant and any member of the Town's professional staff including, but not limited
to, the Town Manager and his or her staff are in writing or are made at a duly noticed
public meeting;

(12) Unsolicited proposals or solicited proposals pursuant to a public-private partnership
with the Town in accordance with F.S. § 255.065, as amended from time to time,
including, but not limited to, contract negotiations between the Town staff,
consultants, and individuals or representatives of entities proposing a public-private
partnership.

(e) Penalties. Violation of this section by a particular respondent, bidder or proposer shall
render any RFP, RFO and bid Solicitation award to said respondent, bidder or proposer
voidable by the Town commission or Town Manager. Any person who violates a
provision of this section may be prohibited from serving on a Town selection or
evaluation committee. In addition to any other penalty provided herein, violation of any
provision of this section by a Town employee may subject said employee to disciplinary action.

(f) **Opt out invoked.** It is hereby provided that the provisions of section 2-11.1(t) "Cone of silence" of the Miami-Dade County Code shall not apply to the Town of Surfside. This opt out provision shall prevail over any conflicting Town ordinance.

Section 3. **Severability.** That the provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. **Codification.** It is the intent of the Town Commission that the provisions of this ordinance shall become and be made a part of the Town’s Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered, and the word “ordinance” may be changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in order to accomplish such intentions.

Section 4. **Conflicts.** All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 5. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading on the 8th day of May, 2018.

PASSED AND ADOPTED on second reading on _____ day of June, 2018.

On Final Reading Moved By: __________________________

On Final Reading Second By: __________________________

FINAL VOTE ON ADOPTION

Commissioner Barry Cohen
Commissioner Michael Karukin _____
Commissioner Tina Paul _____
Vice Mayor Daniel Gielchinsky _____
Mayor Daniel Dietch _____

__________________________________________
Daniel Dietch
Mayor
ATTEST:

_____________________________
Sandra Novoa, MMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:

_____________________________
Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney
Agenda Item # 2B

Date: May 8, 2018 / May 22, 2018

Subject: Ordinance on Lighting Regulations for Marine Turtle Protection
Second Reading

Background - At the March 13, 2018 Town Commission meeting, the Town Commission directed the preparation of an ordinance providing for the protection of marine turtles, including regulations on artificial lighting ("Ordinance"). First reading of the Ordinance occurred at the Commission meeting on April 10, 2018, with the Commission directing two changes to the Ordinance: (1) Section 34-83(1), Prohibited Activities, to prohibit at nighttime during nesting season, the operation of all motorized vehicles on the beach, except emergency and law enforcement and emergency beach maintenance vehicles; and (2) Section 34-84(b) Lighting Standards for Existing Development, to require compliance with lighting standards within 24 months of the effective date of the Ordinance.

Analysis - The Florida Department of Environmental Protection ("DEP") and the Fish and Wildlife Conservation Commission ("FWC") consider the proposed Ordinance to be minimum guidelines for the protection of nesting habitat, nesting females, and hatching marine turtles from the negative effects of artificial lighting. The proposed Ordinance is consistent with recommended minimum guidelines established by DEP and FWC and consistent with Section 161.163, Florida Statutes. The responsibility for protecting nesting female and hatching marine turtles is a joint responsibility of local government and the DEP. Local governments are encouraged by DEP to adopt, implement, and enforce the guidelines directed at protecting marine turtles along the local government’s beaches.

The proposed Ordinance establishes prohibited activities disruptive to marine turtles. The Ordinance also establishes lighting standards for new development within the line-of-sight of the beach. The Ordinance further addresses and establishes lighting standards for existing development within the line-of-sight of the beach and interfering with turtle nesting, and provides for a 24-month compliance period from the effective date of the ordinance or when existing development begins renovations exceeding 50% of the assessed value of the structure, as determined by the Building Official.

DEP has stated the importance of considering several issues when adopting such protections, including the following:
(a) Public Awareness. Any person submitting an application for coastal construction activities within the Town beaches or near the beaches should be informed of the existence of and requirements of the Ordinance upon its adoption to help raise awareness and ensure compliance.

(b) Local Government. Upon adoption of the Ordinance, a system of communication between the Town and DEP should be developed, if it does not already exist. Protection of marine turtle nesting habitat, nesting females, and hatchlings is greatly enhanced when local governments manage their beaches and coastal activities in a manner consistent with prudent marine turtle conservation strategies. DEP can assist local governments by providing conservation information and other technical assistance.

(c) Inter-Governmental Cooperation. Upon adoption of the Ordinance, the Town should develop a system for receiving copies of permits issued by FWC, the DEP, or the United States Army Corps of Engineers, for any coastal construction within the local government's jurisdiction. Activities permitted by these agencies should be assessed for compliance with the Town’s Ordinance.

(d) Enforcement. Local governments should develop a process for the consistent and effective enforcement of adopted regulations. As written, the Ordinance proposes using Code Compliance staff and procedures, as contained within Chapter 15 of the Town’s Code.

Budget Impact - The Town will need to implement, monitor and enforce compliance with the Ordinance, thereby necessitating staff time and resources. Public awareness and an education campaign is also needed and will require expenditure of funds for such purposes.

Initial budget impact is calculated at $1,000 per month for the first six months.

Staff Impact - Use of Building and Code Compliance staff.

Recommendation - It is recommended that the Town Commission adopt the Ordinance on second reading, with the changes directed by the Commission at first reading on April 10, 2018, amending the Code to implement lighting regulations for marine turtle protection as recommended by DEP and FWC.

Guillerme Olmedillo, Town Manager
ORDINANCE NO. 2018 - _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE
TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN
CODE BY CREATING ARTICLE VI, "LIGHTING
REGULATIONS FOR MARINE TURTLE PROTECTION"
OF CHAPTER 34 "ENVIRONMENT"; PROVIDING FOR
SEVERABILITY; PROVIDING FOR INCLUSION IN THE
CODE; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Town of Surfside ("Town") is committed to environmental
conscientiousness and leadership, and towards that end has previously adopted ordinances
prohibiting the sale or use of polystyrene food service articles, as well as the banning of plastic
straws that threaten wildlife and marine life; and

WHEREAS, marine turtle nesting in the State of Florida has been negatively affected
due to the artificial lights from residential and commercial properties near the beaches; and

WHEREAS, the Town finds that it is in the public interest, safety, and welfare to adopt
the proposed regulations and rules recommended by the Florida Department of Environmental
Protection ("DEP") and Florida Fish and Wildlife Conservation Commission ("FWC"); and

WHEREAS, the further purpose and intent of these regulations is to implement Section
161.163, Florida Statues, and

WHEREAS, the regulations intended effect is to protect hatchling marine turtles from
the adverse effects of artificial lighting and provide overall improvement in nesting habitats that
have been degraded by light pollution in order to increase the successful nesting activity and
production of hatchlings; and

WHEREAS, Chapter 34 of the Town’s Code of Ordinances ("Code") pertains to the
environment, and the Town Commission wishes to amend Chapter 34 of the Town’s Code to
create Article VI regulating artificial lighting along the beaches; and

WHEREAS, the Town Commission finds that this Ordinance is necessary for the
preservation and improvement of the environment and marine wildlife, public health, safety and
welfare of the Town’s residents and visitors.

NOW, THEREFORE, THE COMMISSION OF THE TOWN OF SURFSIDE
HEREBY ORDAINS:

Section 1. Recitals. The above-stated recitals are true and correct and are
incorporated herein by this reference.
Section 2. **Town Code Amended.** The Code of the Town of Surfside, Florida is hereby amended by adding Article VI “Lighting Regulations for Marine Turtle Protection” of Chapter 34 “Environment” to read as follows:

Chapter 34 – Environment

Article VI – Lighting Regulations for Marine Turtle Protection.

**Section 34-81. Purpose and Intent.**

The purpose of this article is to reduce the impacts of artificial coastal lighting on threatened and endangered sea turtles that nest on the beaches of Surfside by restricting artificial lighting and other activities that disorient turtle hatchlings, causing them to crawl toward land rather than toward the ocean. This article is intended to provide overall improvements in nesting habitat degraded by light pollution, and increase successful nesting activity and production of hatchlings. The restrictions and constraints of this article shall be effective within the incorporated areas of Surfside and apply to any artificial lighting that has potential to adversely impact sea turtles within Town limits.

**Sec. 34-82. Definitions.**

Definitions provided in this article are intended for use in this article only and shall not be construed to amend any existing definition in the Land Development Regulations. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alternative lighting source* means any amber or red LED bulbs with long wavelength bulbs greater than 580 nanometers; low pressure sodium bulbs, Turtle Safe Lighting coated compact fluorescent bulb; fiber optic lighting and true red neon or any other lighting device that meets the intent of this article.

*Artificial light* means any point source of light emanating from a device made by humans, including but not limited to incandescent mercury vapor, metal halide, sodium lamps, fluorescent, flashlights, spotlights, streetlights, vehicular lights, construction lights, security lights, bonfires, or any light emanating from any reflective surface of the device.

*Beach* means that area of unconsolidated material that extends landward from the mean low-water line of the Atlantic Ocean, to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation.

*Bug type bulb* means any yellow or other colored light bulb that is marketed as being specifically treated in such a way so as to reduce the attraction of bugs to the light.

*Coastal construction activities* means any work or activity that is likely to have a material physical effect on existing coastal conditions or natural shore and inlet process.
County means Miami-Dade County.

Cumulatively illuminated means illuminated by numerous artificial light sources that as a group illuminate any portion of the beach.

Directly illuminated means illuminated as a result of glowing elements, lamps, globes, or reflectors of an artificial light source that is visible to an observer standing anywhere on the beach.

Dune means a mound or ridge of loose sediments, usually sand-sized, lying landward of the beach and deposited by any natural or artificial mechanism.

Existing development means any development for which a certificate of use or occupancy has been issued or for development activity for which a building permit has been issued and work has been substantially completed at the time of the effective date of this article.

Filmed glass means window glass that has been covered with a film such that the material has a shading coefficient of 45 percent or less, adhesive as an integral part, and has performance claims that are supported by approved testing procedures and documentation.

Frontal dune means the first natural or artificial mound or bluff of sand that is located landward of the beach and that has sufficient vegetation, height, continuity and configuration to offer protective value.

Ground-level barrier means any vegetation, natural feature or artificial structure rising from the ground that prevents beachfront lighting from shining directly onto the beach-dune system.

Hatchling means any species of marine turtle, within or outside of a nest, which has recently hatched from an egg.

Indirectly illuminated means illuminated as a result of glowing elements, lamps, globes, or reflectors of an artificial light source that is not visible to an observer standing anywhere on the beach.

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

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

Nesting season means the period from May 1 through October 31 of each year.
New development means new construction which has not been permitted or for development activity for which a building permit has been issued and work has not been substantially completed at the time of the effective date of this article.

Nighttime means the time period between 10:00 pm and 5:00 am within the Town limits of Surfside.

Person means individuals, firms, associations, joint ventures, partnerships, estates, trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

Tinted glass means any glass treated to achieve an industry-approved inside-to-outside light transmittal value of 45 percent or less. Such transmittance is limited to the visible spectrum (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the glass.

Sec. 34-83. Prohibited Activities Disruptive to Marine Turtles.

Prohibited activities. The following activities involving direct illumination of portions of the beach are prohibited on the beach at nighttime during the nesting season for the protection of nesting marine turtle females, nests and hatchlings:

(1) The operation of all motorized vehicles, except emergency and law enforcement, or emergency beach maintenance vehicles or those permitted on the beach for marine turtle’s conservation and/or research.

(2) The building of campfires or bonfires.

(3) Fireworks displays, except those that have Town special event permits and, if applicable, a Florida Department of Environmental Protection ("DEP") permit; however, nothing in this article shall prohibit the Town’s July 4th fireworks display.

(4) Special events pursuant to Chapter 35, Article 1, of the Town Code, unless allowed first by permit issued by the Florida Department of Environmental Protection.

Sec. 34-84. Lighting Standards for Coastal Construction Activities.

(a) Lighting standards for new development. It is the policy of the Town of Surfside that no artificial light shall illuminate within direct line-of-sight of the beach that has potential to interfere with turtle nesting. To meet this intent, new development construction within line-of-sight of the beach shall comply with the following:

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

(a) The point source of light or any reflective surface of the light fixture is not directly visible from the beach;
(b) Areas seaward of the frontal dune are not directly or indirectly illuminated; and

(c) Areas seaward of the frontal dune are not cumulatively illuminated.

(2) Exterior artificial light fixtures within direct line-of-sight of the beach are considered appropriately designed if:

(a) Completely shielded downlight only fixtures or recessed fixtures having low wattage (i.e., 50 watts or less) bug type bulbs and non-reflective interior surfaces are used. Other fixtures that have appropriate shields, louvered, or cut-off features may also be used if they are in compliance with subsection (1)(a), (b), and (c) above; and

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

(3) Floodlights, uplights or spotlights for decorative and accent purposes that are directly visible from the beach, or which indirectly or cumulatively illuminate the beach, shall not be used.

(4) Exterior lights used expressly for safety or security purposes shall be limited to the minimum number and configuration required to achieve their functional role(s). The use of motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration possible are preferred.

(5) Only low intensity lighting shall be used in parking areas within line-of-sight of the beach. Such lighting shall be:

(a) Set on a base which raises the source of light no higher than 48 inches off the ground or higher if necessary to conform with life safety codes; and

(b) 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 or indirectly illuminate the beach.

(6) Parking areas and roadways, including any paved or unpaved areas upon which motorized vehicles will park or operated, shall be designed and located to prevent vehicular headlights from directly or indirectly illuminating the beach.

(7) Vehicular lighting, parking area lighting, and roadways lighting shall be shielded from the beach through the use of ground-level barriers. 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.
(8) Tinted glass shall be installed on all windows and glass doors of single and multi-story structures within line-of-sight of the beach.

(9) Use of appropriately shielded low pressure sodium vapor lamps and fixtures shall be preferred for high-intensity lighting applications such as lighting parking areas and roadways, providing security, and similar applications.

(10) 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.

(11) Properties that abut the beach which have signage facing the beach or in the line-of-sight of the beach, including building identification signs, shall not be illuminated during the nighttime hours of the nesting season. Properties that face the beach but do not abut the beach which have signage visible from the beach shall be properly shielded with downward facing fixtures where the chosen background does not reflect the light source and signs that are lit internally must illuminate only the text and have the appropriate shielding, and not reflect the light source.

(b) Lighting standards for existing development. It is the policy of the Town of Surfside that no artificial light shall illuminate any area within direct line-of-sight of the beach that has the potential to interfere with turtle nesting. To meet this intent, within twenty-four (24) forty-eight (48) months of the effective date of this article or when an existing development has begun renovations exceeding fifty percent (50%) of the tax assessed value of the structure as determined by the building official, an existing development shall be in compliance with the following:

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

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

   (b) Areas seaward of the frontal dune are not directly or indirectly illuminated; and

   (c) Areas seaward of the frontal dune are not cumulatively illuminated.

(2) The following measures shall be taken to reduce or eliminate the negative effects of existing exterior artificial lighting:

   (a) Reposition fixtures so that the point source of light or any reflective surface of the light fixture is no longer visible from the beach;

   (b) Replace fixtures having an exposed light source with fixtures containing recessed light sources or shields;
(c) Replace traditional light bulbs with bug type bulbs not exceeding 50 watts or any alternative lighting source as defined herein;

(d) Replace nondirectional fixtures with directional fixtures that point down and away from the beach;

(e) Replace fixtures having transparent or translucent coverings with fixtures having opaque shields covering an arc of at least 180 degrees 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;

(f) 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;

(g) Replace incandescent, fluorescent, and high intensity lighting with the lowest wattage low pressure sodium vapor lighting possible for the specific application or an alternative lighting source;

(h) Plan or improve vegetation buffers between the light source and the beach to screen light from the beach;

(i) Construct a ground level barrier to shield light sources from the beach. Ground-level barriers must not interfere with marine turtle nesting or hatching emergence, or cause short- or long-term damage to the beach-dune system;

(j) Permanently remove or permanently disable any fixture that cannot be brought into compliance with the provisions of these standards.

(3) Properties that abut the beach which have signage facing the beach or in the line-of-sight of the beach, including building identification signs, shall not be illuminated during the nighttime hours of the nesting season. Properties that face the beach but do not abut the beach which have signage visible from the beach shall be properly shielded with downward facing fixtures where the chosen background does not reflect the light source and signs that are lit internally must illuminate only the text and have the appropriate shielding, and not reflect the light source.

(4) 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 line-of-sight of the beach:

(a) Apply window tint or film that meets the standards in the definition of "Tinted or Filmed glass";
(b) Rearrange lamps and other moveable fixtures away from windows;
(c) Use window treatments (e.g., blinds, curtains) to shield interior lights from the Beach; and/or
(d) Turn off unnecessary lights.

Sec. 34-85. Other Codes and Provisions.

(a) To the extent these standards conflict with life safety codes or other codes having life safety provisions, the provisions of this Article shall not supersede those specific life safety provisions.

(b) New or existing development which has secured a Coastal Construction Line Permit or Joint Coastal Permit from the Department of Environmental Protection which includes a lighting review for marine turtle protection will be deemed to have complied with the provisions of this Article.

(c) Publicly-owned lighting which includes, but is not limited to, street lights, park lights, publicly-owned facility lights and walkway lights shall be shielded or shaded to the extent the lights are determined by the Town not to be necessary for public safety purposes.

Sec. 34-86. Enforcement and Penalties.

The provisions of this article shall be enforced pursuant to Article 1, Chapter 15, of this Code and by any other means permitted by law. In addition, the enforcing agency may notify the property owner or other person responsible for lighting or management of the property, in writing, that an external lighting source causing a violation may be removed by the Town. The Town shall recover from the property owner the costs of removal of external lighting sources causing violations, which shall constitute a lien against the property and shall be reimbursed to the Town at time of sale of the property or upon any lien foreclosure action. Said lien shall have the same priority as a lien for real estate taxes.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. It is the intent of the Town Commission that the provisions of this ordinance shall become and be made a part of the Town's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered, and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

Section 3. Conflicts. All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.
Section 5. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading on the 10th day of April, 2018.

PASSED AND ADOPTED on second reading on 8th day of May, 2018.

On Final Reading Moved By: ___________________________

On Final Reading Second By: ___________________________

FINAL VOTE ON ADOPTION

Commissioner Barry Cohen
Commissioner Michael Karukin
Commissioner Tina Paul
Vice Mayor Daniel Gielchinsky
Mayor Daniel Dietch

Daniel Dietch
Mayor

ATTEST:

Sandra Novoa, MMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:

Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney