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ORDINANCE NO. 2018 - 1688

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 Statutes, 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.

36 **Section 2. Town Code Amended.** The Code of the Town of Surfside, Florida is
37 hereby amended by adding Article VI "Lighting Regulations for Marine Turtle Protection" of
38 Chapter 34 "Environment" to read as follows:

39 **Chapter 34 – Environment**

40 **Article VI –Lighting Regulations for Marine Turtle Protection.**

41

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

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

51

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

53

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

58

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

63

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

68

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

72

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

75

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

78

79 *County* means Miami-Dade County.

80
81 *Cumulatively illuminated* means illuminated by numerous artificial light sources that as a
82 group illuminate any portion of the beach.

83
84 *Directly illuminated* means illuminated as a result of glowing elements, lamps, globes, or
85 reflectors of an artificial light source that is visible to an observer standing anywhere on the beach.

86
87 *Dune* means a mound or ridge of loose sediments, usually sand-sized, lying landward of
88 the beach and deposited by any natural or artificial mechanism.

89
90 *Existing development* means any development for which a certificate of use or occupancy
91 has been issued or for development activity for which a building permit has been issued and work
92 has been substantially completed at the time of the effective date of this article.

93
94 *Filmed glass* means window glass that has been covered with a film such that the material
95 has a shading coefficient of 45 percent or less, adhesive as an integral part, and has performance
96 claims that are supported by approved testing procedures and documentation.

97
98 *Frontal dune* means the first natural or artificial mound or bluff of sand that is located
99 landward of the beach and that has sufficient vegetation, height, continuity and configuration to
100 offer protective value.

101
102 *Ground-level barrier* means any vegetation, natural feature or artificial structure rising
103 from the ground that prevents beachfront lighting from shining directly onto the beach-dune
104 system.

105
106 *Hatchling* means any species of marine turtle, within or outside of a nest, which has
107 recently hatched from an egg.

108
109 *Indirectly illuminated* means illuminated as a result of glowing elements, lamps, globes, or
110 reflectors of an artificial light source that is not visible to an observer standing anywhere on the
111 beach.

112
113 *Marine turtle* means any marine-dwelling reptile of the families Cheloniidae or
114 Dermochelyidae found in Florida waters or using the beach as a nesting habitat, including the
115 species: *Caretta caretta* (loggerhead), *Chelonia mydas* (green), *Dermochelys coriacea*
116 (leatherback), *Eretmochelys imbricata* (hawksbill), and *Lepidochelys kempi* (Kemp's ridley). For
117 purposes of this section, marine turtle is synonymous with sea turtle.

118
119 *Nest* means an area where marine turtle eggs have been naturally deposited or subsequently
120 relocated.

121
122 *Nesting season* means the period from May 1 through October 31 of each year.

123

124 *New development* means new construction which has not been permitted or for
125 development activity for which a building permit has been issued and work has not been
126 substantially completed at the time of the effective date of this article.

127
128 *Nighttime* means the time period between 10:00 pm and 5:00 am within the Town limits of
129 Surfside.

130
131 *Person* means individuals, firms, associations, joint ventures, partnerships, estates, trusts,
132 syndicates, fiduciaries, corporations, and all other groups or combinations.

133
134 *Tinted glass* means any glass treated to achieve an industry-approved inside-to-outside
135 light transmittal value of 45 percent or less. Such transmittance is limited to the visible spectrum
136 (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the
137 glass.

138
139 **Sec. 34-83. Prohibited Activities Disruptive to Marine Turtles.**

140
141 *Prohibited activities.* The following activities involving direct illumination of portions of the
142 beach are prohibited on the beach at nighttime during the nesting season for the protection of
143 nesting marine turtle females, nests and hatchlings:

- 144
145 (1) The operation of all motorized vehicles, except emergency and law
146 enforcement, or emergency beach maintenance vehicles or those permitted on the
147 beach for marine turtle's conservation and/or research.
148
149 (2) The building of campfires or bonfires.
150
151 (3) Fireworks displays, except those that have Town special event permits and, if
152 applicable, a Florida Department of Environmental Protection ("DEP") permit;
153 however, nothing in this article shall prohibit the Town's July 4th fireworks display.
154
155 (4) Special events pursuant to Chapter 35, Article 1, of the Town Code, unless
156 allowed first by permit issued by the Florida Department of Environmental
157 Protection.

158
159 **Sec. 34-84. Lighting Standards for Coastal Construction Activities.**

160
161 (a) *Lighting standards for new development.* It is the policy of the Town of Surfside that no
162 artificial light shall illuminate within direct line-of-sight of the beach that has potential to interfere
163 with turtle nesting. To meet this intent, new development construction within line-of-sight of the
164 beach shall comply with the following:

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166 (1) Exterior artificial light fixtures shall be designed and positioned so that:
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168 (a) The point source of light or any reflective surface of the light fixture is
169 not directly visible from the beach;

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(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, louvers, 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.

216 (8) Tinted glass shall be installed on all windows and glass doors of single and
217 multi-story structures within line-of-sight of the beach.
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219 (9) Use of appropriately shielded low pressure sodium vapor lamps and fixtures
220 shall be preferred for high-intensity lighting applications such as lighting parking
221 areas and roadways, providing security, and similar applications.
222

223 (10) Temporary lighting of construction sites during the marine turtle nesting
224 season shall be restricted to the minimal amount necessary and shall incorporate all
225 of the standards of this section.
226

227 (11) Properties that abut the beach which have signage facing the beach or in the
228 line-of-sight of the beach, including building identification signs, shall not be
229 illuminated during the nighttime hours of the nesting season. Properties that face
230 the beach but do not abut the beach which have signage visible from the beach shall
231 be properly shielded with downward facing fixtures where the chosen background
232 does not reflect the light source and signs that are lit internally must illuminate only
233 the text and have the appropriate shielding, and not reflect the light source.
234

235 (b) *Lighting standards for existing development.* It is the policy of the Town of Surfside that no
236 artificial light shall illuminate any area within direct line-of-sight of the beach that has the potential
237 to interfere with turtle nesting. To meet this intent, within twelve (12) months of the effective date
238 of this article or when an existing development has begun renovations exceeding fifty percent
239 (50%) of the tax assessed value of the structure as determined by the building official, an existing
240 development shall be in compliance with the following:
241

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

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

246 (b) Areas seaward of the frontal dune are not directly or indirectly
247 illuminated; and
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249 (c) Areas seaward of the frontal dune are not cumulatively illuminated.
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251 (2) The following measures shall be taken to reduce or eliminate the negative
252 effects of existing exterior artificial lighting:
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254 (a) Reposition fixtures so that the point source of light or any reflective
255 surface of the light fixture is no longer visible from the beach;
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257 (b) Replace fixtures having an exposed light source with fixtures
258 containing recessed light sources or shields;
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260 (c) Replace traditional light bulbs with bug type bulbs not exceeding 50
261 watts or any alternative lighting source as defined herein;
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(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 hatchling 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;

309 (c) Use window treatments (e.g., blinds, curtains) to shield interior lights
310 from the Beach; and/or

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312 (d) Turn off unnecessary lights.

313

314 **Sec. 34--85. Other Codes and Provisions.**

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

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

322

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

326

327 **Sec. 34-86. Enforcement and Penalties.**

328

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

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

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

348

349 **Section 3. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of
350 resolutions, in conflict herewith, are repealed to the extent of such conflict.

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

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354 PASSED on first reading on the 10^h day of April, 2018.

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

356 On Final Reading Moved By: Commissioner Karukin

357 On Final Reading Second By: Vice Mayor Gielchinsky

358 FINAL VOTE ON ADOPTION

359	Commissioner Barry Cohen	<u>yes</u>
360	Commissioner Michael Karukin	<u>yes</u>
361	Commissioner Tina Paul	<u>yes</u>
362	Vice Mayor Daniel Gielchinsky	<u>yes</u>
363	Mayor Daniel Dietch	<u>yes</u>


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Daniel Dietch
Mayor

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ATTEST:



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Sandra Novoa, MMC
Town Clerk

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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

Additions to text are shown in underline. Deletions to text are shown in ~~strikethrough~~. Additions to the text after first reading are shown in double underline. Deletions to text after first reading are shown in ~~double-strikethrough~~.