



# TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

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**MEETING TYPE:** Town Commission

**MEETING DATE** April 4, 2023

**SUBMITTED BY:** Ingrid Allen, Town Planner, Building Department

**SUBJECT:** Proposed amendment to the Town Code of Ordinances to incorporate sea turtle protection lighting standards.

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## **SUMMARY:**

On October 18, 2022, the Town Commission considered an introduction to a proposed amendment to the Town Code of Ordinances that would incorporate more comprehensive standards for sea turtle protection lighting (see attached Commission memorandum). A motion was made to send the proposed Ordinance to the NRPAB for review and to ask Gumbo Limbo, Florida Fish and Wildlife Conservation Commission (FWC), and the Town's marine turtle permit holder to give their expert advice (motion carried 5-0). Note that the attached October 18, 2022 Commission memorandum provides an assessment of the current sea turtle lighting regulations found in the Town Code as well as Town Comprehensive Plan policies that are specific to the protection of sea turtles. In addition, the memorandum provides sea turtle data from FWC.

A summary of the comments provided by FWC and Gumbo Limbo are provided below (see Attachment No. 1, 2 and 3 for complete comments including those from the Town's marine turtle permit holder):

## **FWC:**

- Add "footcandle" definition consistent with the State of Florida Model Lighting Ordinance for Sea Turtle Protection (*added to proposed Ordinance via **bolded double underline***).
  - Provide a light transmittance of 15% to 30%.
  - For temporary construction lighting, add the following two (2) additional regulations under Section 4-8(k)(4):
    - c. Turned off during nighttime in sea turtle nesting season, or if authorized during sea turtle nesting season, shall only be allowed from 6:00AM to 9:00PM, must be restricted to the minimal amount necessary, and shall incorporate the standards in this section, and
    - d. Restricted to the minimal number of foot-candles necessary to conform to the applicable construction safety regulations.
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## Gumbo Limbo:

- Revise definition of “beach” to reflect the “toe of the dune” rather than “permanent” vegetation.
- Provide in Certified Wildlife Lighting definition where choices can be found.
- For temporary lighting, include cell phone screens (*added to proposed Ordinance via bolded double underline*).
- Provide a light transmittance of 15% or 15% for all windows within 100 feet of the toe of the dune and 45% for 100 feet beyond dune.
- For proposed Existing Exterior and Interior Lighting (Sec. 4.8(j)(2)b.) include the removal of televisions away from windows (*added to proposed Ordinance via bolded double underline*).

At the October 18, 2022 Town Commission meeting, the Commission’s discussion on the proposed Ordinance included adding examples of colors that pertain to the definition of “long wavelength.” The proposed Ordinance has been revised, via bolded double underline, to include such examples.

In addition, the draft ordinance that was provided to the Town Commission on October 18<sup>th</sup>, 2022, did not specifically require compliance with the “Existing Exterior and Interior Lighting” regulations proposed in Section 4-8(j). The provision read “Reduce or eliminate the negative effects of existing exterior artificial lighting through the following measures.” The proposed Ordinance has been revised to require compliance with such measures (note the addition of the word “shall”) given all the other proposed sea turtle lighting regulations are required. It was noted by the Town Attorney in review of the Ordinance for required public hearings that the measures be either clearly required or suggested remedial measures.

### *Light Transmittance:*

According to the State of Florida Model Lighting Ordinance for Sea Turtle Protection (dated December 17, 2020) and the proposed Town ordinance, all glass windows, walls, railing and doors on the seaward side of any new construction shall use tinted glass with an inside to outside Light Transmittance Value (LTV) of 45 percent or less. As noted above, FWC suggests a LTV of 15 to 30% and Gumbo Limbo suggests a minimum LTV of 15 percent with some exceptions. Attachment No. 4 provides a chart to illustrate the various light transmittance percentages. The following table provides the current LTV adopted by those municipalities in Palm Beach County that have sea turtle lighting regulations (according to FWC):

<b>MUNICIPALITY</b>	<b><i>LIGHT TRANSMITTANCE</i></b>
Boca Raton	<i>45% or less</i>
Palm Beach County	<i>45% or less</i>
Delray Beach*	<i>45% or less</i>
Juno Beach*	<i>45% or less</i>
Ocean Ridge*	<i>45% or less</i>

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\* Municipalities that have adopted Palm Beach County’s Sea Turtle Protection Ordinance.

Also attached to this memorandum is a 2021 lighting survey that was conducted in Highland Beach for a research project with Palm Beach County (Attachment No. 5). While the survey was considered informal, it did record those properties with non-compliant lighting based on the County Code.

### **Natural Resources Preservation Advisory Board recommendation**

At the February 1, 2023 Natural Resources Preservation Advisory Board meeting, a motion to approve the proposed Ordinance with the following changes carried 4-0:

Remove the word 'televisions' from Section 4-8(j)(2)b. and add the following text to Section 4-8(j)(2)c.

Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights, light emitting screens including televisions and computers from the beach.

### **Planning Board recommendation**

At the March 9, 2023 Planning Board meeting, the Board made a motion to approve the Ordinance (motion carried 4-0).

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### **FISCAL IMPACT:**

N/A

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### **ATTACHMENTS:**

Town Commission Memorandum – October 18, 2022.

Proposed Ordinance.

Attachment No. 1 - FWC comments on proposed Ordinance.

Attachment No. 2 - Gumbo Limbo comments on proposed Ordinance.

Attachment No. 3 - Highland Beach marine turtle Permit Holder comments.

Attachment No. 4 – Light transmittance percentages chart.

Attachment No. 5 - Lighting Survey for Highland Beach (2021) prepared by Palm Beach County, Department of Environmental Resources Management.

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### **RECOMMENDATION:**

At the discretion of the Commission.