



TOWN OF HIGHLAND BEACH AGENDA MEMORANDUM

MEETING TYPE: Town Commission Meeting

MEETING DATE: December 5, 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.

SUMMARY:

At the May 23, 2023 Town Commission meeting, the Commission considered a proposed amendment to the Town Code of Ordinances that would incorporate more comprehensive regulations for sea turtle protection lighting. Discussion from the Commission included the following commentary which is noted in **bold** followed by a staff response in *italics*:

1. All new construction or the full replacement of existing windows, walls, railings, and doors would require a 45% light transmittance value or less while the replacement of individual windows, walls, railings and doors would not. *Town staff has determined that the inclusion above of "full replacement" of existing windows, etc., may be problematic given permits for such replacements are often issued to individual unit owners rather than to one entity (e.g. condominium HOA). The Building Department does not require a HOA approval letter for such replacements and therefore having to determine and ultimately manage whether individual permits are part of a "full replacement" or not, is not practical. Moreover, "full replacement" is not defined and therefore if, for example, beachfront unit windows are to be replaced but not beachfront accessory use windows (e.g. pool bathroom window or cabana window, etc.) then would such work be considered a "full replacement" or not? That said, and upon direction of the Town Manager, the 45% or less light transmittance requirement has been revised to apply only to new construction. Section 4-8 (e)(5) of the proposed Ordinance has been revised as follows (additions are denoted by a gray bolded double underline and deletions are denoted by a gray bolded double ~~strikethrough~~):*

(5) All glass windows, walls, railings, ~~and~~ doors, or similar glass features on the seaward and shore-perpendicular sides of any new construction shall use tinted glass with an inside to outside light transmittance value of 45 percent or less.

In addition, Section 4-8(j)(2) has been revised to require the following measures:

(2) Existing structures shall be encouraged to implement Take one or more of the following suggested remedial measures to minimize interior light emanating from doors and windows within line-of-sight of the beach:

- a. Apply window tint or film that meets the light transmittance standards for tinted glass;
- b. Rearrange lamps, televisions, and other moveable fixtures away from windows;
- c. Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.

2. The reference to “nighttime” in Section 4-8(k) Special Events, Motor Vehicles, and Temporary Lighting needs to be specific. Section 4-8(d) of the proposed Ordinance references that no artificial light shall illuminate any area of the beach which may be used for turtle nesting and hatching during the period from March 1 to October 31 of each year, from “dusk to dawn.” Note that the latter regulation is currently in the Town Code under Section 4-8(c).

3. Reach out to Delray Sands to see if they have tinted windows and get their input. Staff reached out to the General Manager of the Delray Sands, Derric Clark, and he was advised that the windows on ocean facing rooms have tinting with a 44 percent light transmittance value.

4. Provide a sample of tinted glass with a 45 percent light transmittance value. Staff received a single sample of such tinted glass which will be provided at the Commission meeting.

The following additional changes have been made to the Ordinance:

1. The definition of ‘New Construction’ has been revised as follows to remove the reference to “alterations” given the 45 percent or less transmittance value is proposed to be applicable to new construction only not alterations:

Section 4-8(b) New construction means all new construction of or additions and alterations to buildings, pools, pavement, other structures, landscape areas or lighting systems. The most protective lighting standards apply to new construction visible from the beach.

2. The ‘applicability’ of the Ordinance has been revised to all beachfront properties and all exterior lighting of properties located on the westside of State Road A1A as follows:

Section 4-8(c) Applicability. This section shall apply to all **beachfront** properties **and to all exterior lighting of properties located on the westside of State Road A1A** within

the Town that may produce artificial light directly, indirectly, or cumulatively visible from any portion of the beach ~~regardless of whether these properties are beachfront properties~~. The provisions of this section are not intended to prevent the use of any design, materials or method of installation or operation not specifically prescribed herein, provided any such alternate has been approved. The Building Official may approve any such proposed alternate provided it:

3. Minor formatting changes.

Effective October 1, 2023, Section 166.041(4), Florida Statutes requires that before the enactment of a proposed ordinance, the governing body of a municipality shall prepare or cause to be prepared a Business Impact Estimate (BIE) (see attached). According to Section 166.041(4), Florida Statutes, the BIE is a good faith estimate of the number of businesses likely to be impacted by the Ordinance and may not be construed to require a municipality to procure an accountant or other financial consultant to prepare such BIE.

For reference purposes, a brief history on hearings held relating to the proposed sea turtle lighting Ordinance are provided below:

October 18, 2022: Town Commission considers introduction to proposed Ordinance. A motion was made to send the proposed Ordinance to the Natural Resources Preservation Advisory Board (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). In addition, discussion among the Commission included adding examples of colors that pertain to the definition of "long wavelength."

February 1, 2023: NRPAB made a motion to recommend approval of the proposed Ordinance with the following changes (motion 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.

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

April 4, 2023: Town Commission considers proposed Ordinance. Commission commentary includes the following:

- Concern that proposed long wavelength lighting (e.g. amber, orange or red) may not provide safety or security.
 - Consider phasing period for proposed regulations.
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FISCAL IMPACT:

None

ATTACHMENTS:

Proposed Ordinance

Business Impact Estimate

Sea turtle protection lighting table, other municipalities

Town Commission Memorandum with attachments - April 4, 2023

Town Commission Memorandum with attachments - May 23, 2023

RECOMMENDATION:

At the discretion of the Town Commission.