

DIVISION 4. - BARRIER ISLAND AND SEA TURTLE PROTECTION⁴¹

Sec. 4.107. - Beach and dune protection.

- 4.107.A. *Dune preservation zone.* A dune preservation zone extending from the mean high-water line of the Atlantic Ocean to a point being 50 feet westerly of the coastal construction control line (CCCL) as in force and effect on June 1, 1985, is hereby established.
- 4.107.B. *Permitted uses within dune preservation zone.* No development, other than approved shore protection, beach restoration, St. Lucie Inlet maintenance, dune crossovers or activities related to beach safety shall be permitted within the dune preservation zone.
- 4.107.C. *Modification of dune preservation zone boundaries.* For those lands lying south of the Fletcher Beach access strip, the Board of County Commissioners may reduce the western limits of the dune preservation zone upon a determination that such a reduction shall not materially affect the preservation of the dune. No total net loss of dune shall be allowed.
- 4.107.D. *Responsibility for funding.* Funding for approved beach renourishment, shoreline stabilization and dune restoration projects shall be the responsibility of the beneficiaries of such projects.
- 4.107.E. *Dune restoration.* Dune restoration shall be a component of all beach renourishment projects.
- 4.107.F. *Motorized vehicles.* No motorized land vehicles shall be allowed seaward of the dune preservation zone without prior approval from DEP and the Board of County Commissioners.
- 4.107.G. *Dune crossings.* A permit from the Department of Environmental Protection is required for the construction of walkways crossing dunes to beaches fronting on the open waters of the Atlantic Ocean.
1. Dune crossings constructed across the dune are to be post-supported and elevated according to the provisions set forth by the Department of Environmental Protection which vary in allowance for sand buildup and clearance above existing or proposed dune vegetation.
 2. Each subdivision will be limited to one common dune crossing, provided, however, that this limitation shall not apply to single-family lots constituting lots of record prior to the enactment of this division. The crossing structure shall conform to the standards set forth by the DEP for public walkways and handicap ramps.
- 4.107.H. *Pedestrian use of dune crossings.* No person shall cross a dune except by way of an elevated dune crossing.

(Code 1974, § 33-72(G); Ord. No. 462, pt. I, 6-6-1995)

Sec. 4.111. - Sea turtle protection.

- 4.111.A. *Prohibition of activities disruptive to sea turtles.*
1. *Horseback riding and campfires.* Horseback riding and campfires shall be prohibited on or seaward of the primary dune during the nesting season. Areas of prohibition for these activities are also extended to all areas landward of the primary dune where sea turtles are known to nest.
 2. *Disturbance or touching of sea turtles.* Any disturbing, touching, harassing, killing or taking of any sea turtle, hatchling, egg or part of same is strictly prohibited. Persons wishing to observe sea turtle nesting and/or hatching are encouraged to join a DEP approved public awareness "turtle walk." Groups or individuals conducting public awareness turtle walks shall obtain a permit from DEP and follow DEP guidelines.

4.111.B. *Required sea turtle protection plan (STPP)*. A sea turtle protection plan (STPP) approved by the County in consultation with DEP shall be required for all coastal construction involving the installation of permanently mounted light fixtures and for all coastal construction conducted during the nesting season seaward of the primary dune or landward of the primary dune where sea turtles are known to nest. Approval of an STPP does not relieve applicants from complying with all other applicable conditions set out in this division or from mitigating against subsequent negative impacts to sea turtles, their nests or eggs.

1. *STPP application procedures*. A STPP shall be submitted to the County concurrently with the application for a development order. The STPP shall include the following information, as applicable:
 - a. Location, number, positioning and type of all proposed permanent exterior artificial light sources including, but not limited to, those used on balconies, walkways, recreational areas, roadways, parking lots, dune crossovers, decks, boardwalks and signs.
 - b. Protective/mitigative measures to minimize lighting impacts on sea turtles, including measures to prevent direct illumination of areas seaward of the primary dune.
 - c. Schedule of proposed construction periods.
 - d. Number of linear feet of shoreline seaward of the primary dune upon which construction will occur.
 - e. Number and type of vehicles, equipment and materials to be used seaward of the primary dune, and location of beach access points to be used in moving equipment and materials to and from the site.
 - f. Location, number, positioning and type of temporary nighttime security lights.
 - g. Protective/mitigative measures to minimize construction impacts on sea turtles.
2. *Alternate STPP application procedure*. The provisions of subsection 1 (required sea turtle protection plan (STPP)) above can be met by supplying a copy of a sea turtle protection plan approved through permit by the State of Florida Department of Environmental Protection (DEP).

4.111.C. *General standards for coastal construction*. The following standards with no exceptions shall apply to all coastal construction specified in this division and shall be met prior to the issuance of a building permit or approval of a site plan:

1. *Timing considerations*. Coastal construction shall be limited to the maximum extent possible to the nonnesting season (November 1 through February 28). Coastal construction (other than government-approved hydraulic filling activities) occurring during any portion of the nesting season shall be conducted during daylight hours only.
2. *Coastal construction seaward of primary dune during nesting season*. Protective and mitigative measures for sea turtles developed pursuant to this division shall be implemented for all coastal construction seaward of the primary dune during the nesting season.
3. *Restrictions on nighttime security lighting*. Temporary nighttime security lighting should be limited to the fewest number of lights necessary to provide adequate security and shall:
 - a. Be mounted not more than 15 feet above the ground;
 - b. Not illuminate areas outside of the subject property, and use shrouded lighting hoods or shielded lighting to retain light within these areas;
 - c. Not directly illuminate areas seaward of the primary dune, unless protective mitigative measures for lighting impacts are developed pursuant to this division.
4. *Protective and mitigative measures*. Temporary security lighting, or construction seaward of the coastal construction control line or 50-foot setback during the sea turtle nesting season, will require extended review by County staff and the DEP and shall not be approved unless emergency circumstances are demonstrated. If it is absolutely necessary for these activities to

be performed because emergency circumstances have been demonstrated, then lighting shall be limited to the fewest number necessary. If construction seaward of the coastal construction control line is proposed during the nesting season, then the following minimum additional information for protective and mitigative measures must be supplied. If these minimum criteria are required as part of the DEP sea turtle protection plan permit then the project will be exempt from additional Martin County permitting requirements. Protective and mitigative measures shall include, but not be limited to, the following, as applicable:

- a. *Nest relocation.* A permitted agent of the State shall conduct a preliminary site survey and relocate all sea turtle nests to a safe habitat during the nesting season.
- b. *Exemption of preliminary site survey.* Construction activity in progress on or before March 1 of each year shall be exempt from a preliminary site survey, but the daily nesting survey requirements below shall apply.
- c. *Delay of construction.* If nests are known to be present during a preliminary site survey and cannot be relocated or removed to a safe habitat, construction shall be postponed for 65 days or until all potentially affected nests have hatched.
- d. *Prevention of construction delays.* Persons anticipating construction starts during the nesting season may obtain the services of a permitted agent of the State to mark all nests on a daily basis as set out in DEP guidelines, beginning no later than March 1 of each year. The nests may be relocated by the permitted agent of the State after all permits have been obtained.
- e. *Daily nesting surveys.* A permitted agent of the State shall conduct daily nesting surveys of construction areas seaward of the primary dune and shall cage sea turtle nests or relocate the nests to a safe habitat, beginning with the preliminary site survey or the nesting season, as applicable, until one of the following occurs: construction activities are completed or the nesting season has ended.
- f. *Delimitation of construction areas.* Preliminary site surveys and daily nesting surveys shall encompass all areas seaward of the primary dune upon which equipment and materials are moved to and from the construction site.
- g. *Record maintenance.* Daily records shall be maintained for all sea turtle monitoring conducted pursuant to this division and, together with a summary of the monitoring results, shall be provided to the County upon completion of construction activities or at the end of the sea turtle nesting season, whichever comes first. Daily records shall include, as appropriate:
 - (1) Date of the preliminary site survey;
 - (2) Inclusive dates of daily nesting survey;
 - (3) Number of nests relocated;
 - (4) Number of eggs per nest relocated;
 - (5) Hatch success, if required by DEP; and
 - (6) Names of permitted agent of the State performing monitoring program.

4.111.D. *Standards for site development.* All agents of the State performing site development activities within jurisdictional boundaries, approved by the County after the effective date of this division, shall comply with the following standards, as applicable, and the standards shall be incorporated into a STPP:

1. *Location, alignment and placement of structures.* The positioning of buildings, recreational facilities, walkways, beach access points, parking lots and other features of the site shall be predicated on minimizing operational impacts of these features on sea turtles.
2. *Ground level barriers and dune enhancement.* Natural or artificial structures rising above the ground should be used to the maximum extent possible to prevent lighting from directly or

indirectly illuminating the beach/dune system and to buffer noise and conceal human activity from the beach. Improving dune height in areas of low dune profile, planting native vegetation or using hedges and privacy fences is encouraged.

4.111.E. *Standards for beachfront lighting.* All lighting for the coastal construction activities shall comply with the following standards, as applicable, and shall be incorporated into the STPP:

1. *General prohibition.* No artificial existing or proposed public or private light source, directly or indirectly, within or outside jurisdictional boundaries, shall illuminate areas seaward of the primary dune.
2. *Permanent lighting.* The installation of permanent lighting shall reflect the standards and mitigative measures using the DEP "Information Form to Assess and Reduce Impacts to Marine Turtles" or such publication as amended.
3. *Reference availability.* The County shall make a copy of the DEP "Information Form to Assess and Reduce Impacts to Marine Turtles" available for review. As design and performance standards are developed or upgraded and become available, the County may provide additional references.
4. *Controlled use, design and positioning of lighting.*
 - a. Any and all light fixtures shall be designed or positioned such that they do not cause direct or indirect illumination of areas seaward of the primary dune and the source of light is not directly visible from the beach.
 - b. All lights on balconies shall be shielded from the beach.
 - c. The use of lighting for decorative and accent purposes, within line of sight of the beach, such as that emanating from spotlights or floodlights, is prohibited.
 - d. The use of lights for safety and security purposes shall be limited to the minimum number required to achieve their functional roles.
 - e. Lighting used in parking lots within line of sight of the beach shall be:
 - (1) Set in a base which raises the source of light no higher than 48 inches off the ground.
 - (2) Positioned or shielded such that the source of light is not visible from the beach.
5. *Use of window treatments.* To prevent interior lights from illuminating the beach, one or a combination of the following window treatments are required on all windows of single- and multi-story structures:
 - a. Blackout draperies or shade screens.
 - b. Window tint/film with a shading coefficient (the percent of incident radiation passing through a window) of 0.37 to 0.45.
6. *Design of vehicular circulation and parking areas.*
 - a. Parking lots and roadways, including any paved or unpaved area upon which motorized vehicles will operate, shall be designed and/or positioned such that vehicular headlights do not cast light on the beach.
 - b. Vehicular lighting shall be shielded from the beach through the use of hedges, dune vegetation and/or other ground level barriers.
7. *Lighting for pedestrian traffic.*
 - a. Beach access points, dune crossovers, beach walkways, piers or any other structure on or seaward of the primary dune designed for pedestrian traffic shall use the minimum amount of light necessary to ensure safety.
 - b. Lighting for pedestrian traffic shall be of low intensity and be recessed or shielded so that the source light is not directly visible from the beach.

8. *Beachfront lighting approval.* Prior to the issuance of a certificate of occupancy by the County, each STPP shall be inspected for compliance as follows:
 - a. Upon completion of construction activities, a registered Florida architect or professional engineer shall conduct a site inspection, which includes a night survey with all beachfront lighting turned on.
 - b. The inspector shall prepare and report the inspection findings in writing to the County identifying:
 - (1) Date and time of initial inspection;
 - (2) Extent of compliance with this division;
 - (3) All areas of potential and observed noncompliance with this division;
 - (4) Any actions taken to remedy observed noncompliance, if applicable; and
 - (5) Date and time of remedial inspections, if applicable.
 - c. The inspector shall sign and seal the inspection report, which includes a certification that all beachfront lighting:
 - (1) Has been constructed in accordance with the STPP, if applicable;
 - (2) Does not illuminate areas seaward of the primary dune at the time of night inspection;
 - (3) And is not directly or indirectly visible from the beach at the time of night inspection.
 9. *Approval not exclusive.* Approval of compliance with the beachfront lighting standards set out in the STPP shall not relieve persons from complying with all other applicable conditions set out in this division or from mitigating against subsequent negative impacts to sea turtles, their nests or eggs, resulting from the approved activity.
- 4.111.F. *Standards for beach access points.* All beach access points shall comply with the following standards:
1. *Pedestrian traffic.* Pedestrian traffic shall be directed and limited to beach access points provided with dune crossovers.
 2. *Information sign requirements.* Permanent sea turtle information signs shall be conspicuously posted at all public beach access points provided with dune crossovers and all such private beach access points, except property developed with single-family dwellings. The information signs shall be:
 - a. Standardized by the County; and
 - b. Installed and maintained by the property owner.
 3. *Standardized information requirements.* Information printed on the signs shall inform beach users:
 - a. That sea turtles use the beach as a nesting habitat;
 - b. Of potential penalties for the possession, molestation, disturbance, harassment or destruction of sea turtles, their nests or eggs; and
 - c. Of a contact address or phone number for public use in obtaining additional information.
 4. *Sign maintenance requirements.* Standardized sea turtle information signs shall be maintained in perpetuity such that information printed on the signs remains legible and the signs are positioned such that they are conspicuous to persons accessing the beach.
 5. *Sign removal.* Removal of information signs by anyone other than those authorized by the County is prohibited.

- 4.111.G. *Beach/dune preservation stabilization, restoration.* All coastal construction within jurisdictional boundaries associated with beach/dune preservation, stabilization and restoration, approved by the County, shall comply with the following standards as well as those set out by DEP:
1. *Design and location of structures.* Buried, emergent or aboveground structures shall be designed or located such that they do not act as traps to adult sea turtles or their hatchlings or significantly reduce usable areas of nesting habitat.
 2. *Restored beaches.* Restored beaches shall, to the maximum extent possible, resemble the characteristics of pre-existing or adjacent natural beaches in terms of sediment grain size, compaction, refractivity and beach slope.
 3. *Restored dunes.* Restored and stabilized dunes shall, to the maximum extent possible, be similar in appearance to the pre-existing or adjacent natural dunes in terms of profile, vegetation and sediment characteristics.
 4. *Use of native dune vegetation.* The use of natural, native dune vegetation shall be required and the design and operation of sprinkler systems to sustain dune vegetation shall:
 - a. Be approved by the County prior to installation;
 - b. Be timed and operated so as not to interfere with the normal development of sea turtle eggs in the nests or adversely affect emergent hatchlings; and
 - c. Not broadcast water seaward of the primary dune.
 5. *Consultation with other agencies.* The County shall confer with DEP, permitted companies and State agencies whenever necessary to determine compliance with any of the standards set out in this division.
- 4.111.H. *Standards for mechanical beach cleaning.* All mechanical beach cleaning activities approved by the State after the effective date of this division, designed to remove debris from the beach, alter beach profiles or disturb more than the upper two inches of beach sediment through the use of motorized vehicles or other mechanical means, shall comply with the following standards, and the standards shall be incorporated into a STPP, as applicable:
1. *Compliance with County and State beach/dune preservation policies.* Equipment, methodologies and points of access shall be consistent with long-term beach/dune preservation policies established by the County and State.
 2. *Daylight cleaning only.* Beach cleaning shall be confined to daylight hours.
 3. *Mode of operations.* During the nesting season (March 1 through October 31) the following beach cleaning regulations shall apply:
 - a. Beach cleaning operations shall be limited to the strand line (previous high tide mark) whenever possible.
 - b. Lightweight motorized vehicles having wide, low profile, low pressure tires or hand raking shall be used to conduct beach cleaning operations.
 - c. Devices used for removing debris shall be designed or operated such that they do not penetrate beach sediments by more than two inches.
 4. *Sea turtle protection plan exemption.* An STPP may not be required for mechanical beach cleaning activities, if it is demonstrated to the County that the proposed operation will have no adverse effects on the normal development and viability of eggs and hatchlings in sea turtle nests and habitats, pursuant to the following procedures:
 - a. The County shall be notified in writing by the applicant that the protective/mitigative measures of section 4.111.C.4 shall not be required as part of the State permit.

- b. The County shall grant an exemption from the STPP upon consultation with the State and receipt of a copy of the State permit prior to commencement of the mechanical beach cleaning activities.
- 5. *Coordination of beach cleaning with State-sanctioned studies.* All beach cleaning operations shall be coordinated through the State to ensure that these operations do not interfere with State-sanctioned scientific studies of sea turtle nesting activities.
- 4.111.1. *Enforcement of sea turtle protection standards.* In areas where compliance with the lighting conditions and other mitigative measures within this division are not evidenced, property owners that are not in compliance shall be sent a notice of violation and shall be required to implement appropriate protective measures, developed in consultation with the County and DEP. Mitigative measures shall be implemented in addition to penalties and fines, if applicable. Any mitigation program implemented as a result of a notice of violation shall remain in effect until such time that compliance with this division is documented in the following manner:
 - 1. Submittal to the County of a signed and sealed inspection report by a registered architect or professional engineer. The inspection report shall certify that all provisions of this division have been met.
 - 2. The inspection report shall be prepared and include standard information in accordance with this division.

(Code 1974, § 33-72(K); Ord. No. 462, pt. I, 6-6-1995)