

**ORDINANCE NO. 19-19**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA AMENDING CHAPTER 10. ANIMALS., ARTICLE III. SEA TURTLE PROTECTION. AT SECTION 10-62. DEFINITIONS., 10-66. PROHIBITED ACTIVITIES DURING NESTING SEASON., SECTION 10-67. SEA TURTLE PROTECTION PLAN REQUIRED., SECTION 10-69. GENERAL STANDARDS FOR COASTAL CONSTRUCTION., SECTION 10-72. STANDARDS FOR EXISTING BEACHFRONT LIGHTING. AND SECTION 10-75. STANDARDS FOR MECHANICAL BEACH CLEANING. TO UPDATE THE SEA TURTLE NESTING SEASON DATES SPECIFIC TO PALM BEACH COUNTY; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 10. ANIMALS. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE; A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Village Council of the Village of Tequesta desires to update the sea turtle nesting season dates listed in Chapter 10, Article III of the Village Code to reflect the current nesting season observed in Palm Beach County, Florida; and

**WHEREAS**, the Village Council believes these code revisions will be in the best interests of the Village of Tequesta, and will promote the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, THAT:**

**Section 1:** Chapter 10. Animals. of the Code of Ordinances of the Village of Tequesta is hereby amended at Article III. Sea Turtle Protection. Sec. 10-62. Definitions. by amending the definition for “Nesting season” to update the sea turtle nesting season dates specific to Palm Beach County; providing that the definition shall hereafter read as follows:

**Sec. 10-62. - Definitions.**

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

**[All other definitions shall remain the same as previously adopted.]**

**Section 2:** Chapter 10. Animals. of the Code of Ordinances of the Village of Tequesta is hereby amended at Article III. Sea Turtle Protection. Sec. 10-66. Prohibited activities during nesting season. by updating the sea turtle nesting season dates specific to Palm Beach County; providing that Sec. 10-66. Prohibited activities during nesting season. shall hereafter read as follows:

**Sec. 10-66. - Prohibited activities during nesting season.**

The following prohibitions during the nesting season (~~March-May~~ 1 through October 31) are established for the protection of sea turtles:

- (1) Motorized vehicles seaward of dune. The operation of motorized vehicles, including but not limited to any self-propelled, wheeled, tracked or belted conveyance, shall be prohibited on or seaward of the dune during the nesting season, except in cases of law enforcement, emergency or as otherwise approved by the state department of environmental protection, as further set out in section 10-75.
- (2) Horseback riding. Horseback riding shall be prohibited on or seaward of the dune during the nesting season.
- (3) Campfires. Campfires shall be prohibited on or seaward of the dune.

**Section 3:** Chapter 10. Animals. of the Code of Ordinances of the Village of Tequesta is hereby amended at Article III. Sea Turtle Protection. Sec. 10-67. Sea turtle protection plan required. by updating the sea turtle nesting season dates specific to Palm Beach County; providing that Sec. 10-67. Sea turtle protection plan required. shall hereafter read as follows:

**Sec. 10-67. - Sea turtle protection plan required.**

A sea turtle protection plan shall be required for the following activities and shall include any and all protective/mitigative measures that will be implemented in conjunction with these activities:

- (1) All coastal construction within jurisdictional boundaries involving the installation of permanently mounted light fixtures.
- (2) All coastal construction conducted during the nesting season (~~March-May~~ 1 through October 31), seaward of the dune, within jurisdictional boundaries, including site development and mechanical beach cleaning.

**Section 4:** Chapter 10. Animals. of the Code of Ordinances of the Village of Tequesta is hereby amended at Article III. Sea Turtle Protection. Sec. 10-69. General standards for coastal construction. by updating the sea turtle nesting season dates specific to Palm Beach County; providing that Sec. 10-69. General standards for coastal construction. shall hereafter read as follows:

**Sec. 10-69. - General standards for coastal construction.**

The following standards shall apply to all coastal construction specified in this article and, as applicable, shall be incorporated in a sea turtle protection plan:

- (1) Sea turtle protection plan approval. The department of community development or other applicable municipal departments shall approve a STPP prior to the issuance of a building permit or approval of a site plan provided the standards as set forth in this article have been met. Approval of a STPP does not relieve persons from complying with all other applicable conditions set out in this article or from mitigating against subsequent negative impacts to sea turtles, their nests or eggs resulting from the approved activity.
- (2) Construction seaward of dune during nesting season. Appropriate protective/mitigative measures for sea turtles, developed pursuant to this section, shall be implemented for all coastal construction seaward of the dune during the nesting season.
- (3) Restrictions on nighttime security lighting. Temporary nighttime security lighting shall be restricted as follows:
  - a. Be mounted not more than 15 feet above the ground.
  - b. Not illuminate areas outside of the subject property.
  - c. Not directly illuminate areas seaward of the dune unless specific protection/mitigative measures for lighting impacts are developed pursuant to this section.
- (4) Nighttime construction during nesting season. To avoid potential lighting impacts on nesting adult turtles and emergent hatchlings, protective/mitigative measures for sea turtles which comply with this article may be required for nighttime coastal construction during the nesting season, in addition to those in subsection (5) of this section.
- (5) Protective/mitigative measures. Protective/mitigative measures shall include, but not be limited to, the following, as applicable:
  - a. Preliminary site survey. A permitted agent of the state shall conduct a preliminary site survey and relocate all sea turtle nests to a safe habitat for coastal construction seaward

- of the dune during the nesting season.
- b. Exemption from preliminary site survey. Construction activity in progress on or before March~~May~~ 1 of each year shall be exempt from a preliminary site survey but shall implement a daily nesting survey pursuant to subsection (5)e of this section.
  - c. Delay of construction. If nests are known to be present during a preliminary site survey and cannot be relocated and/or removed to a safe habitat, construction shall cease for 60 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 relocate nests from construction areas on a daily basis, beginning not later than March~~May~~ 1 of each year.
  - e. Daily nesting surveys. A permitted agent of the state shall conduct daily nesting surveys of construction areas seaward of the dune and shall cage sea turtle nests or relocate the nest to a safe habitat, beginning with the preliminary site survey or the nesting season, as applicable, until any one of the following occurs:
    1. Exclusion fences are erected pursuant to subsection (5)f of this section.
    2. Construction activities are completed.
    3. The nesting season has ended as defined in this article.
  - f. Use of exclusion fences. Any physical barrier used to prevent sea turtles from entering construction areas may be used as an exclusion fence in lieu of daily nesting surveys if prior approval is granted by the department of community development. Exclusion fences shall:
    1. Be constructed so they are noninjurious to adult sea turtles.
    2. Form a continuous barrier against sea turtle intrusions.
    3. Be monitored daily by state department of environmental protection approved personnel.
    4. Be repaired as necessary to prevent breaches.
    5. Not prevent legal pedestrian access to the beach.
  - g. Breaches through exclusion fences. Breaches through an exclusion fence which result in successful nesting shall be reported to the department of community development

and the nest shall be relocated from the construction area by a permitted agent of the state.

- h. Delimitation of construction areas. Preliminary site surveys, daily nesting surveys and/or exclusion fences shall encompass all areas seaward of the dune upon which construction activities occur and upon which equipment and materials are moved to and from the construction areas.
- i. Records maintenance. Daily records shall be maintained for all sea turtle monitoring conducted pursuant to this section, and, together with a summary of the monitoring results, shall be provided to the department of community development by the persons identified in section 10-68(1)a upon completion of construction activities, or the end of the sea turtle nesting season, whichever comes first. Daily records shall include, as appropriate:
  - 1. The date of the preliminary site survey.
  - 2. The dates of the daily nesting survey.
  - 3. The dates of exclusion fence monitoring.
  - 4. The observed nesting activity within the construction area.
  - 5. The number of nests relocated.
  - 6. The number of eggs per nest relocated.
  - 7. The nest relocation areas.
  - 8. The hatch success if required.
  - 9. The effectiveness of the exclusion fence.
  - 10. The name of the permitted agent of the state performing the monitoring program.

**Section 5:** Chapter 10. Animals. of the Code of Ordinances of the Village of Tequesta is hereby amended at Article III. Sea Turtle Protection. Sec. 10-72. Standards for existing beachfront lighting. by updating the nesting season dates specific to Palm Beach County; providing that Sec. 10-72. Standards for existing beachfront lighting. shall hereafter read as follows:

**Sec. 10-72. - Standards for existing beachfront lighting.**

Existing beachfront lighting shall comply with the following conditions by April 1, 1991:

- (1) Adjustment to essential lighting. Existing artificial light sources shall be repositioned, modified or replaced with modern alternatives so that the source of light is not directly

visible from the beach and/or does not directly illuminate areas seaward of the dune. Techniques and/or materials used shall be consistent with the Raymond manual referenced in section 10-71(2) and other reference manuals identified by the department of community development.

- (2) Reduction of indirect lighting on beach. The installation of ground-level barriers is encouraged to reduce the amount of indirect lighting striking the beach-dune system.
- (3) Lighting for pedestrian traffic. Lights illuminating beach access points, dune crossovers, beach walkways, piers or any other structure seaward of the dune designed for pedestrian traffic shall be shielded such that they are not directly visible from the beach.
- (4) Use of window treatments. To prevent interior lights from illuminating the beach, window treatment shall be required on all windows of single- and multi-story structures within jurisdictional boundaries. Blackout draperies or shadescreens are preferred. Alternatively, window tint may be applied to beachfront windows. The turning out of all unnecessary interior lights during the nesting season is encouraged.
- (5) Special lighting restrictions during nesting season. Continuously throughout each nesting season (~~March-May~~ 1 through October 31), external light sources illuminating areas seaward of the dune shall be turned off each night between the hours of 11:00 p.m. and 7:00 a.m.
- (6) Enforcement and implementation of mitigative measures. In areas where compliance with the lighting conditions of this article are not evidenced, noncompliant property owners shall be required to implement appropriate protective measures, developed in consultation with the department of community development, to mitigate against potential negative impacts to sea turtles. Mitigative measures shall be implemented in addition to applicable penalties and fines. Any mitigation program implemented as a result of noncompliance with lighting conditions of this article shall remain in effect until such time that acceptable beachfront lighting is achieved.
- (7) Exemption. Areas that have no potential nesting (dry sand) beach may be exempt from lighting restrictions if it can be demonstrated that the lighting is not visible on adjacent potential nesting (dry sand) beaches.

**Section 6:** Chapter 10. Animals. of the Code of Ordinances of the Village of Tequesta is hereby amended at Article III. Sea Turtle Protection. Sec. 10-75. Standards for mechanical beach

cleaning. by updating the nesting season dates specific to Palm Beach County; providing that Sec. 10-75. Standards for mechanical beach cleaning. shall hereafter read as follows:

**Sec. 10-75. - Standards for mechanical beach cleaning.**

All mechanical beach cleaning activities approved by the state 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 sea turtle protection plan, as applicable:

- (1) Compliance with beach-dune preservation policies. Equipment, methodologies and points of access shall be consistent with beach-dune preservation policies established by the village, county and state.
- (2) Timing. Beach cleaning shall be confined to daylight hours.
- (3) Mode of operations. During the nesting season (~~March-May~~ 1 through October 31):
  - a. Beach cleaning operations shall be limited to the wrack line (previous high tide mark) or below.
  - b. Lightweight motorized vehicles having wide, low-profile, low-pressure tires shall be used to conduct beach cleaning operations instead of heavy equipment.
  - c. Devices used for removing debris from the beach shall be designed and/or operated such that they do not penetrate beach sediments by more than two inches.
- (4) Sea turtle protection plan exemption. A STPP may not be required for mechanical beach cleaning activities if it is demonstrated to the department of community development and to the state department of environmental protection, bureau of marine research, 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 state department of environmental protection, bureau of marine research, and the department of community development shall be notified in writing by the applicant that the protective/mitigative measures set out in section 10-69(5) shall not be required as part of the state permit.
  - b. The department of community development 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 operations with state-sanctioned scientific 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.

**Section 7:** All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

**Section 8:** Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**Section 9:** Specific authority is hereby granted to codify this Ordinance.

**Section 10:** This Ordinance shall take effect immediately upon passage.