

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING / AGENDA ITEM # 9a**

SUBJECT: An Ordinance Amending Chapter Seven of the Flagler County Code of Ordinances to Prohibit Fires of any Kind on the Beaches of Flager County During Sea Turtle Nesting Season.

DATE OF MEETING: September 6, 2023

OVERVIEW/SUMMARY: On July 15, 2023, Flagler County issued Emergency Administrative Order 2023-01 Prohibiting Fires on Flagler County Beaches During the 2023 Sea Turtle Nesting Season (Emergency Administrative Order). The Emergency Administrative Order was ratified by the Board at its August 7, 2023, meeting. The Emergency Administrative Order will expire at the end of the 2023 sea turtle nesting season, which runs through and is inclusive of October 31, 2023.

The County's Fire Marshall has prohibited such fires during nesting season, but it has not been codified. Newer residents of the County and visitors may not know about the standard enforced by the Fire Marshall. This absence of codification resulted in a group believing that they could have a large bonfire on the beach. It was that conflict that required the issuance of an emergency order.

Fires on the beaches during sea turtle nesting season create a distracting illumination on the beach which interfere with the normal nesting activities of sea turtles coming ashore. Such fires also pose a danger to sea turtle hatchlings. Several local governments have passed bans on beach fires during sea turtle nesting season, including our own, the City of Flagler Beach, and the Towns of Beverly Beach and Marineland.

Creation of this ordinance for Flagler County would bring it in line with the other beach jurisdictions in the County for consistency. The County Fire Marshall endorses this codification of the fire prohibition. The Volusia/Flagler Sea Turtle Patrol, which is the entity designated by the Florida Fish and Wildlife Conservation Commission to monitor sea turtle nesting in Flagler County, also strongly supports the ordinance.

The ordinance does not otherwise prohibit normal and responsible use of the County's beaches for recreation during sea turtle nesting season.

STRATEGIC PLAN:

Focus Area: Growth & Infrastructure

- o Goal 2 – Protect and Manage Natural Resources

Focus Area: Public Health and Safety

- o Goal 2 – Operate a Risk Reduction Program

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Al Hadeed, County Attorney 386-313-4005

RECOMMENDATION: Request the Board approve this ordinance creating Section 7-5. of the Flagler County Code of Ordinances.

ATTACHMENTS:

1. Ordinance
2. Proof of Advertising Legal Notice

ORDINANCE 2023 - ____**AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER SEVEN OF THE FLAGLER COUNTY CODE PROHIBITING FIRES OF ANY KIND ON THE BEACHES OF FLAGLER COUNTY DURING SEA TURTLE NESTING SEASON; PROVIDING FINDINGS; PROVIDING VIOLATIONS; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, sea turtles in the United States are protected under the Endangered Species Act;

WHEREAS, pursuant to the "Marine Turtle Protection Act" of section 379.2431(1), Florida Statutes, the Florida Fish and Wildlife Conservation Commission (FWC) is given the authority and responsibility to implement recovery plans for sea turtles in Florida from the United States Fish and Wildlife Service;

WHEREAS, the Volusia/Flagler Turtle Patrol is the entity designated by FWC to monitor sea turtle nesting in Flagler County and to carry out the monitoring activities for the County's beach renourishment projects that are being conducted during sea turtle nesting season due to the County's local state of emergency;

WHEREAS, each year sea turtle nesting season in Flagler County begins on May 1 and runs through and is inclusive of October 31, as set by FWC;

WHEREAS, the County has a long history of implementing sea turtle protections, including the County Fire Marshall prohibiting fires on the beach during the nesting season;

WHEREAS, the Comprehensive Plan policies require protection of sea turtle nesting areas by prohibiting the disturbance of nests, restricting beach cleaning activities in nesting seasons, and controlling the emission of light from structures on or adjacent to the beach through local ordinance, land development controls, and operating procedures (E.1.3.01);

WHEREAS, light from human activities on and near beaches interfere with the normal activities of nesting sea turtles and subsequent sea turtle hatchlings;

WHEREAS, the County, in accordance with rules adopted by the FWC pursuant to section 161.163, Florida Statutes, has enacted an artificial lighting ordinance which is located in the land development code (Section 6.05.00);

WHEREAS, fires of any kind on the beaches not only pose an additional significant light source harmful to the sea turtle nesting season, any debris, including hot embers, left behind present additional hurdles to sea turtles and even a potential risk of mortality;

WHEREAS, the County Engineer and the County Fire Marshall endorse, and the Volusia/Flagler Turtle Patrol strongly supports codifying a prohibition on fires on the County's beaches during sea turtle nesting season;

WHEREAS, the City of Flagler Beach, Town of Beverly Beach and Town of Marineland have enacted ordinances prohibiting fires on the beaches during sea turtle nesting season; and

WHEREAS, consistency in beach regulations along the County's coastline is best for its residents and visitors;

WHEREAS, the Flagler County Board of County Commissioners intends to further implement the policies of its Comprehensive Plan for sea turtle protections by adoption of this Ordinance codifying the prohibition on fires of any kind on the County's beaches during sea turtle nesting season;

WHEREAS, public notice of the adoption of this Ordinance has been provided in accordance with Chapter 125.66(2)(a), Florida Statutes; and

NOW THEREFORE, be it ordained by the Flagler County Board of County Commissioners as follows:

SECTION 1. FINDINGS

The above recitals are incorporated herein as true and correct and establish the legislative intent of this Ordinance.

SECTION 2. FLAGLER COUNTY CODE OF ORDINANCES AMENDMENT

Section 7-5 of the Flagler County Code of Ordinances is hereby created as follows (additions are shown in underline format, deletions are shown in ~~striketrough~~ format):

Sec. 7-5. – Bonfires Reserved.

Bonfires, campfires, or any other type of fire on the beaches of Flagler County are prohibited at any time during sea turtle nesting season. Sea turtle nesting season occurs annually and currently begins May 1 and runs through and is inclusive of October 31, or as may be modified by the Florida Fish and Wildlife Conservation Commission. Violations of the provisions herein shall be punishable as provided for in chapter 9 of this Code, provided however, that imposition of a penalty does not prevent the pursuit and issuance of injunctive relief.

SECTION 3. CODIFICATION AND SCRIVENER'S ERRORS

- A. The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of Flagler County, Florida, as additions and amendments thereto, and shall be appropriately renumbered or re-lettered to conform to the uniform numbering system of the Code. Scrivener's errors may be corrected as deemed necessary.
- B. Only Section 2 herein shall be codified within the Flagler County Code of Ordinances. Sections not specifically amended herein shall remain unchanged by this Ordinance.

SECTION 4. SEVERABILITY

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

SIGNATURE PAGE TO FOLLOW

PASSED AND ADOPTED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, THIS _____ DAY OF SEPTEMBER 2023.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST:

Gregory L. Hansen, Chair

Tom Bexley, Clerk of the Circuit Court and Comptroller

APPROVED AS TO FORM:

Albert J. Hadeed, County Attorney