
CHAPTER 161 SUPPLEMENTAL REGULATIONS**161.01 PARKING**

- (A) **Parking in Residential Areas.** It shall be unlawful for any person to park any vehicle displaying advertising signs or any truck (including pickup truck), trailer, commercial vehicle or recreational vehicle in or upon any property, public or private, in any area of the Town in a residential district. This prohibition, however, shall not apply in the following cases:
- (1) Vehicles which are entirely enclosed within the confines of an enclosed garage; provided however that not more than one (1) commercial vehicle shall be stored in a garage.
 - (2) Vehicles used by licensed contractors or service establishments while actually doing work in such residential areas between the hours of 7:00 a.m. to 7:00 p.m., excluding Sundays and holidays, provided however that such vehicles shall contain written identification on both sides of the vehicle clearly indicating the name of the contractor or service establishment.
 - (3) Loading or unloading of trucks (including pickup trucks), trailers or commercial vehicles, provided that such loading or unloading takes no more than two (2) hours and is not done between the hours of 7:00 p.m. of one day and 7:00 a.m. of the next day.
 - (4) The loading or unloading of recreational vehicles provided that such loading or unloading takes no more than two (2) hours and is not done between the hours of 7:00 p.m. of one day and 7:00 a.m. of the next day.
 - (5) Mobile cranes and other heavy equipment used during building construction.
- (B) **Unlicensed Motor Vehicles.** No unlicensed motor vehicle shall be kept on any property for a period of more than fifteen (15) days unless entirely within a building.
- (C) **Trucks, Trailers, Commercial Vehicles and Recreational Vehicles Parking Upon Streets and Public Places.** Unless otherwise specifically provided for in the Town's Code of Ordinances, no trucks, trailers, commercial vehicles or recreational vehicles shall be parked upon the streets or other public places of the Town between the hours of 7:00 p.m. on one day and 7:00 a.m. of the next day. This prohibition is in addition to the total prohibition covering residential areas as provided in subsection (A) above.
- (D) **Trucks, Boats, Boat Trailers, Campers and Domestic Trailers.** No trucks, boats, trailers, campers or similar items shall be permitted to be parked, placed, kept or stored in residential areas unless completely garaged in a fully enclosed garage, provided however that this provision shall not apply to boats in the water or being launched or removed from the water.
- (E) **Enforcement.** Violation of the provisions of this Section shall be subject to enforcement and penalties as prescribed in this Chapter, or by such other means as deemed appropriate by the Town.
- (F) **Civil Infraction.**
- (1) As used in this Chapter, the "Code Enforcement Officer" means any Public Safety Officer or an employee designated as agent of the Town to enforce Codes and Ordinances of the Town.
 - (2) For the purpose of this Chapter, violators shall be deemed to be those persons or entities legally responsible for violations of this Code.
 - (3) A Code Enforcement Officer who finds a violation of any section of this Code as amended, and/or other Ordinances adopted by this Code as amended from time to time shall prescribe a reasonable time period within which the violator must correct the violation. This determination shall be based on considerations of ability to correct; severity of violation; nature, extent and probability of danger or damage to the public; and other relevant factors relating to the reasonableness of the time period prescribed. A time for correction need not be specified if the violation is deemed to be an irredeemable violation.
 - (4) A Code Enforcement Officer who finds such a violation shall issue a civil violation notice to the violator. Service shall be effected by delivering the civil violation notice to the violator, or his agents, or by leaving the civil violation notice at the violator's usual place of abode with any person residing therein who is fifteen (15) years of age or older, and informing that person of its contents, or the civil violation notice may be sent by certified mail, return receipt requested. If service cannot be effected by any other means, posting of the civil violation notice in a conspicuous place on the premises or

property upon which the violation has been observed may be performed. Such posting shall be deemed proper service, and the time for compliance stated in the notice shall commence with the date such notice is posted.

(G) Civil Penalties.

- (1) The penalty for a violation may be up to two hundred fifty and no/100 dollars (\$250.00) for each violation and for each day of continuing or repeated violation.
- (2) Continuing violations are those violations that remain uncorrected beyond the prescribed time period for correction contained in the civil violation notice. For each day of continued violation after the time period for correction has run, an additional penalty in the same amount as for the original violation shall be added.

(H) Right of Violators, Payment and Right of Appeal.

- (1) A violator who has been served with a civil infraction notice shall elect either to:
 - (a) Pay the civil penalty in the manner indicated on the infraction notice and correct the violation within the time specified on the notice; or
 - (b) Request an administrative hearing before the Code Enforcement Board to appeal the determination of the inspector that resulted in the issuance of the civil infraction notice.
- (2) An appeal for administrative hearing shall be accomplished by filing a request in writing to set the hearing for review and mailed to the Code Enforcement Clerk or his/her designee or to the address indicated on the notice, not later than twenty (20) days after the service of the notice.

(I) Recovery of Unpaid Civil Penalties, Unpaid Penalty to Constitute a Lien and Foreclosure.

- (1) The Town may institute proceedings in a Court of competent jurisdiction to compel payment of civil penalties.
- (2) A certified copy of an Order imposing a civil penalty may be recorded in the Public Records of the County and thereafter shall constitute a lien against the land on which the violation exists or existed; if the violator does not own the land, upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a Court Judgment by the Sheriffs of this State, including levy against the personal property, but shall not be deemed to be a Court Judgment, except for enforcement purposes. After three (3) months from the filing of any such lien that remains unpaid, the Town may foreclose or otherwise execute on the lien.
- (3) Nothing contained in this Chapter shall prohibit the Town from enforcing its Town Ordinance or Town Code by any other means. The enforcement procedures outlined herein are cumulative to all others, and shall not be deemed to be prerequisites to filing suit for enforcement of any section of this Code. [Ord. No. 510]

161.02 GENERAL DESIGN STANDARDS

- (A) **Clothes Lines and Trash Cans.** Clothes lines, drying yards and garbage and trash receptacles shall be located so as not to be visible from the street or adjoining property.
- (B) **Care of Premises.** No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any part of the property, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon, including vacant lots. The Town Manager or designee shall have the authority to exempt parcels of undeveloped real property from the requirements of this Section (B); provided however the owner shall, at a minimum, maintain a five (5) foot wide corridor that conforms to the standards of this Section (B) where the real estate parcel abuts developed property or a public or private right-of-way. [Ord. No. 503]
- (C) **Limitations on Non-Vegetative Decorative Objects in Residential Front, Side and Rear Yards.**
 - (1) **Obstructions.** From grade to the sky, the front yards of single family residential lots shall not be obstructed except by:
 - (a) Natural vegetation and plantings;
 - (b) Fences and other structures explicitly authorized elsewhere in this ordinance;
 - (c) Retaining walls and similar structures necessary for the maintenance of topographic integrity and for the prevention of runoff;

- (d) One flag pole not to exceed eighteen (18) feet in height; and
 - (e) Up to three (3) non-vegetative decorative objects.
- (2) **Height and Size.** Non-vegetative decorative objects permitted by the above subsection shall:
- (a) Not exceed twenty-four (24) inches in height above the grade where they are placed. Grade shall be determined by the approximate average grade in the front yard; and
 - (b) Not be larger than would fit within an imaginary cube of two (2) cubic feet.
- (3) **Petitions for Relief from Specifications.** In the event the property owner desires to vary from the specifications for non-vegetative decorative objects stated in this Ordinance, the property owner may petition to the Planning, Zoning & Variance Board for approval of any objects that do not strictly comply with such requirements.
- (4) **Violations.** Violations shall be enforced under Town Code Enforcement procedures.
- (5) **Review Criteria.** In making a determination as to whether a non-vegetative decorative object meets the requirements of this Ordinance, the Planning, Zoning & Variance Board may consider among other things:
- (a) Whether the object or objects are in harmony with the neighborhood from an architectural and an aesthetic standpoint;
 - (b) The size and type of object or objects is not garish and would not be offensive to normal sensibilities;
 - (c) The object or objects would not create a threat of damage to the property on which it is located or surrounding properties in the event of a wind storm;
 - (d) The object or objects does not affect the view of or from the roadway or in any way cause a traffic hazard;
 - (e) Steps taken to shield the object or objects from the view of persons outside the property through either landscaping and/or fencing; or
 - (f) Whether adjoining property owners or others in the immediate area oppose the object or objects. If the Planning, Zoning & Variance Board determines the object or objects to be in compliance, then no further action may be taken regarding such object or objects. If the Planning, Zoning & Variance Board determines the object or objects are not in compliance with this Code, then the property owner will be given ten (10) days to correct the situation and to bring the property into conformity with this Code.
- (6) **Enforcement.** In the event the object or objects in violation of this Ordinance remain on the property after notification, then the Town Code Enforcement Officer shall present the matter to the Code Enforcement Board under the procedures outlined for matters considered by that Board. Any violation as determined by the Code Enforcement Board shall carry with it the same penalties as provided in the Code Enforcement Board ordinance previously adopted by the Town and as amended from time to time.
- (7) **Objects in Place Prior to Ordinance.** Non-vegetative decorative objects located in front yards on the adoption date of this Ordinance shall be permitted to remain if otherwise in conformity with Town ordinances on said date. No change or modification to any such previously placed objects shall be permitted unless said object or objects are in conformity with this Ordinance following such change or modification.

161.03 TIME SHARING PROHIBITED

Any real property which may become subject to a time-sharing program of any kind is prohibited as is the conversion of the use of real property to time-sharing projects.

161.04 SATELLITE DISH ANTENNA

- (A) **Intent.** The intent of this section is to improve the appearance of certain setback and yard areas and to protect and preserve the appearance, character and value of surrounding properties, and thereby promote the general safety and welfare by restricting the location of satellite dish antennas within residential districts and providing screening requirements. This section shall be considered a minimum standard and shall apply to all land situated in the corporate limits of the Town.
- (B) **Definition.** For the purpose of this Section, "Satellite Dish Antenna" shall be defined as an antenna with a diameter greater than

twenty (20) inches.

- (C) **Building Permit Required.** A building permit is required prior to installation of all satellite dish antennas.
- (D) **Restrictions.** The following restrictions shall apply to all satellite dish antennas.
- (1) All dish antennas shall be an accessory use. Only one such antenna shall exist at any one time on any residentially zoned lot or parcel. The maximum antenna diameter shall be thirty-six (36) inches;
 - (2) No dish antennas shall be located in any front yard in any residential zoning district;
 - (3) All dish antennas shall have setbacks from side and rear lot lines equal to or greater than the height of the proposed dish antenna. In no case shall the required setback be less than twenty (20) feet; and
 - (4) All dishes shall be mounted on the ground.
- (E) **Screening Requirements.** All dish antennas shall provide screening in order to shield the antenna from the view of surrounding properties.
- (1) **Design Standards.** The screen shall be comprised of a continuous six (6) foot hedge or completely opaque fence with one (1) tree planted for each thirty (30) lineal feet of screen length, or fraction thereof. The hedge shall be a minimum of six (6) feet in height at the time of planting. Trees planted to meet the requirements of this section shall be a minimum of eight (8) feet in height at the time of planting and shall be a species which shall grow to a mature height of at least twenty (20) feet.
 - (2) **Location.** The screening shall be located along the property line or lines of the lot upon which the antenna is located in a manner which shields the antenna from the view of adjacent residences. The Town Building Official shall approve the location, composition and vegetative species of all screening material. All screening material must be maintained to the minimum specification requirements.
 - (3) **Modification to Screening Requirements.** These screening requirements above may be adjusted by the Town Building Official upon the applicant's demonstration that unique features of the site warrant a modified screening requirement. The adjustment shall be rendered by the Town Building Official only after a written determination that the proposed adjustment in the screening requirement fulfills the purpose and intent of this section and does not reduce the protection of adjacent property owners.

161.041 SOLAR SYSTEMS (PHOTOVOLTAIC, WATER OR OTHER)

- (A) **Intent.** The intent of this section is to improve the appearance of certain setback and yard areas and to protect and preserve the appearance, character and value of surrounding properties, and thereby promote the general safety and welfare by restricting the location of solar systems within residential districts and providing for location requirements. This section shall be considered a minimum standard and shall apply to all land situated in the corporate limits of the Town.
- (B) **Definition.** For the purpose of this section, "Solar Systems" shall be defined as systems designed to collect solar energy and convert it to other type of energy.
- (C) **Building Permit Required.** A building permit is required prior to installation of all solar systems.
- (D) **Restrictions.** The following restrictions shall apply to all solar systems.
- (1) All solar systems shall be an accessory use;
 - (2) No solar system shall be located in the front yard or where it is visible from any front yard in a residential zoning district; and
 - (3) All solar systems shall have setbacks from side and rear lot lines equal to or greater than the height of the proposed system. In no case shall the required setback be less than twenty (20) feet.
- (E) **Screening requirements.** All non-roof mounted solar systems shall be shielded, to the extent possible, from the view of surrounding properties.
- (1) **Design Standards.** The screen shall be comprised of a continuous six (6) foot hedge or completely opaque fence. The

hedge shall be a minimum of six (6) feet in height at the time of planting.

- (2) **Location.** The screening shall be located along the property line or lines of the lot upon which the solar system is located in a manner which shields the solar system from the view of adjacent residences. The Town Tree Protection Officer shall approve the location, composition and vegetative species of all screening material. All screening material must be maintained to the minimum specification requirements.
- (3) **Modification to Screening Requirements.** These screening requirements above may be adjusted by the Tree Protection Officer upon the applicant's demonstration that unique features of the site warrant a modified screening requirement. The adjustment shall be rendered by the Tree Protection Officer only after a written determination that the proposed adjustment in the screening requirement fulfills the purpose and intent of this section and does not reduce the protection of adjacent property owners.

161.05 TENNIS COURTS

- (A) **Intent.** The intent of this section is to improve the appearance of setback and yard areas and to protect and preserve the appearance, character and value of surrounding properties, and thereby promote the general welfare by regulating the location, screening and lighting of tennis courts within residential districts.
- (B) **Setback Requirements.** The following setback requirements shall apply to the location of tennis courts within residential zoning districts:
 - (1) All tennis courts shall be located a minimum of fifteen (15) feet from any property lines which are adjacent to existing single-family dwellings or land zoned R1A.
 - (2) All tennis courts adjacent to multi-family residential or nonresidential developments shall have a minimum separation of ten (10) feet between the court area and the subject property line.
- (C) **Regulation of Lighting.** The lighting of outdoor tennis courts shall be arranged and designed in a manner which shields or reflects lighting from adjacent properties and roadways while maintaining adequate light for recreational purposes. No lighting of outdoor tennis courts shall be permitted after 10:00 p.m.
- (D) **Screening Requirements.** All tennis courts abutting residential property shall provide a continuous six (6) foot hedge along all subject property lines. All hedges shall be a minimum of six (6) feet in height at the time of planting.

161.06 USE OF RESIDENTIAL UNIT AS SALES OFFICE

- (A) **Time Limit.** The use of no more than one (1) dwelling unit solely as a sales office for the sale of dwelling units within the same subdivision or condominium development shall be permitted for a period not in excess of one (1) year commencing the date the first certificate of occupancy is issued in the subdivision or condominium.
- (B) **Registration.** The use as a sales office of the dwelling unit as a sales office shall be registered as an accessory use with the Town Building Official.
- (C) **Extension.** The Town Council may, at its sole discretion, extend the permitted one (1) year period for use of the dwelling unit upon application made by the developer, owner or agent not less than thirty (30) days before expiration of the one (1) year permit. The extension granted shall not exceed an additional one (1) year period from the date of the original expiration and shall be based upon unique project size, timing or other extenuating circumstances.

161.07 PRESERVATION OF JUNGLE TRAIL

- (A) **Definitions.** For the purpose of this subchapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:
 - (1) **Protected Area.** The area sixty (60) feet east of the platted centerline of Jungle Trail; and
 - (2) **Structures.** All buildings and other products of construction.
- (B) **Development Abutting Jungle Trail; Protection Plan Required.** Any development abutting Jungle Trail, at the time a development request is submitted, shall include a plan for implementing the intent of this chapter to protect the appearance and character of Jungle Trail. The plan shall set forth, in sufficient detail as determined by the Town Building Official, the area affected and the size and kind of plantings in place and to be put in place under the presented plan. The following concepts shall

be included in any plan presented:

- (1) **Jungle Trail Heritage.** It is the policy of the Town to protect the natural heritage of the Jungle Trail and to contribute to its historic and scenic appreciation.
- (2) **Application.** The plan shall be in sufficient detail as determined by the Town Building Official to review for compliance with this Ordinance. If selective removal of exotic vegetation from the protected area is desired, an application shall be prepared showing in detail:
 - (a) Existing vegetation, including number or extent within the area and size and type of all vegetation proposed for removal; and
 - (b) Proposed native plantings, including number or extent within the area, type, size, density and location.
- (3) **Restrictions within Buffer Zone.** The following restrictions shall apply to the twenty (20) foot wide buffer zone immediately abutting the easternmost portion of the roadway for Jungle Trail, as follows:
 - (a) Development of any type will not be permitted within this area;
 - (b) No berming or elevation transition will be allowed;
 - (c) Clear cutting will not be allowed except under circumstances where sight lines are obstructed and contribute to traffic hazards;
 - (d) All existing native vegetation shall be retained, except that selective removal of exotic species shall be permitted upon approval of the Planning, Zoning & Variance Board;
 - (e) Any exotic species removed shall be replaced with native vegetation from the Town's native plant list upon approval of the Planning, Zoning & Variance Board. The native plantings shall provide a natural appearance and shall be installed to establish a visual buffer of a minimum of seven (7) feet in height above Jungle Trail's travel-way grade and sixty (60) percent opacity, continuous throughout the length of the planted area, within two (2) years of the time of planting;
 - (f) No finger docks shall be permitted, and the allocation of power-boat slips to community marinas will be in accordance with Indian River County rules as detailed in Indian River County's Manatee Protection Plan; and
 - (g) Unless contrary to the specific requirements of Sections (a) through (f) immediately above, the restrictions set forth in the Jungle Trail Landscape Plan, IRS JT-1, dated 2/15/89, shall apply in the Buffer Zone.
- (4) **Setbacks.** In addition to the other restrictions set forth in this Ordinance, there shall be no structure within the sixty (60) foot corridor east of the center line of Jungle Trail, except pools and patios may be constructed within the easternmost twenty (20) feet.
- (5) **Review Criteria for Multi-Slip Docks.** Only multi-slip docks shall be permitted on the property adjoining Jungle Trail. Application for such docks shall be presented by the developer, property owners' associations or condominium associations for consideration by the Planning, Zoning and Variance Board. The Planning, Zoning and Variance Board shall consider the following factors in determining whether an application shall be granted:
 - (a) Provision for protecting the area on both sides of Jungle Trail from pedestrian and vehicular damage;
 - (b) Landscaping proposed;
 - (c) Aesthetic design and view from Jungle Trail;
 - (d) Total number of slips or docks that are to be proposed for a particular property;
 - (e) Compliance with laws and rules of all government agencies; and
 - (f) Parking and access from the development and adjoining Jungle Trail.
- (C) **Rules and Regulations.** The Town Council may, from time to time, adopt rules and regulations by resolution setting forth specific restrictions for the purpose of preserving Jungle Trail. The resolution shall include, but not be limited to, the restrictions and requirements set forth elsewhere in this Ordinance.

- (D) **Guidelines to Be Prepared and Adopted by Resolution.** The Town of Indian River Shores shall prepare guidelines, which will be adopted by resolution of the Town Council relating to Jungle Trail, which shall include the following:
- (1) **Clear Cutting Prohibited; Exceptions.** The prohibition on clear cutting of vegetation in the protected area, except under circumstances where sight lines are obstructed and contribute to traffic hazard.
 - (2) **Exotic Vegetation.** Provide for the cutting of selective exotic vegetation within the protected area upon approval of the Town Building Official or the Planning, Zoning and Variance Board.
 - (3) **Drainage and Maintenance.** In any development proposal for lands abutting Jungle Trail, provision shall be established to provide adequate drainage from the roadbed and surrounding property, and a program of maintenance shall be established to assure the continuing effectiveness of the system.
 - (4) **Tree Protection and Removal.** In any development plan, provision shall be made for the selective removal of trees and other vegetation from the protected area when such are damaged beyond restoration. In all cases, such activity shall comply with the Town tree protection ordinance.
- (E) **Variances.** The Town of Indian River Shores may grant such variances from the terms of this Ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary and undue hardship. Prior to the approval of any variance from the provisions of this Ordinance, or the rules and regulations adopted hereunder, the Planning, Zoning and Variance Board must find that:
- (1) Specific conditions and circumstances peculiar to the land, structure or buildings involved exist;
 - (2) The special conditions and circumstances are not as a result of actions of the applicant;
 - (3) The literal interpretation of the provisions of the Ordinance would deprive the applicant of rights commonly enjoyed by other property owners abutting the same historic or scenic road under the terms of this Ordinance, and would work unnecessary and undue hardship on the applicant;
 - (4) No new vehicular access points shall be authorized;
 - (5) The variance granted is the minimum variance that will make possible the reasonable use of the land; and
 - (6) The granting of the variance will be in harmony with the general intent and purpose of the Ordinance.

161.08 SPECIAL STATE ROAD A-1-A SETBACK

- (A) **Setback Requirement/Service Road.** All site plans and plats of land abutting State Road A-1-A shall be required to provide a sixty (60) foot building setback from the right-of-way for State Road A-1-A and, at the discretion of the Town Council, may be required to provide within the setback a twenty (20) foot wide service road with limited access to State Road A-1-A.
- (B) **Alternative to Section (A) Above.** As an alternative to (A) above, any site plan or plat may provide for the dedication of a fifteen (15) foot strip on each side of State Road A-1-A covered by the site plan or plat. The dedication shall be for the widening of the road and shall be in a form acceptable to the Town. All minimum setbacks specified in Table 160 shall then be measured from the outer edge of the dedicated strip.

161.09 OTHER HISTORIC PROPERTIES

Any historic or archaeological properties on the State Master Site File or National Register of Historic Places shall be subject to appropriate historic preservation procedures as outlined in the Coastal Management Element of the Comprehensive Plan.

161.10 WATER AND SEWAGE

All new development shall be served by public water and sanitary sewer lines.

161.11 STRUCTURES IN UTILITY EASEMENTS

Erection of permanent structures on easements for public utilities is prohibited. This shall include a garage or other building which will prevent or interfere with the opportunity to use or make the easement accessible for essential services, but shall not include concrete walks, paving, or similar objects.

161.12 HOME OCCUPATIONS

A home occupation as defined herein shall be permitted within R1A Single-Family Residence Districts, RIB Single-Family, Zero Lot Line Residential District and R2A Multiple-Family Residence Districts, subject to the following provisions:

- (A) **Number of Persons Engaged.** Only those persons who reside on the premises shall be engaged in any home occupation.
- (B) **Incidental Character and Restrictions.** The use of the dwelling for the home occupation shall be clearly incidental and secondary to its use for dwelling purposes. The occupation shall not change the character of the dwelling or reveal from the exterior that the dwelling is used for a use other than dwelling purposes. There shall be no display of stock for sale or trade located upon the premises, and no article shall be sold or offered for sale except such as may be produced on the premises or is utilized in conjunction with the home occupation. The manufacturing of a product for resale shall not be produced with mechanical or electrical equipment which is not normally found in a dwelling and considered as purely a domestic implement. No sign shall be displayed which would be visible from the street and no vehicle displaying the business name of the home occupation shall be parked so that the sign is visible from a public or private right-of-way or adjacent residential properties. There shall be no outdoor storage of business equipment, materials or merchandise.
- (C) **Usage.** Any use of a dwelling contrary to these provisions or which creates or may create objectionable noises, fumes, odors, dust, electrical interference or greater than normal residential traffic shall be expressly prohibited.
- (D) **Required Business Tax Receipt.** Any individual who promotes or solicits a home occupation by displaying, advertising or using in any fashion his home address; provides or conducts a home occupation as defined herein; or proffers home occupation services as defined herein shall be required to obtain a business tax receipt from the Town permitting said home occupation. The offering of articles for sale in isolated situations shall not be considered as a home occupation or require business tax receipt.
- (E) **Permit Application.** Application for a business tax receipt for a home occupation shall be made to the Town Building Department, setting forth the address of the subject premises, the type of home occupation desired and the area of the dwelling to be utilized for same.

161.13 SWIMMING POOLS: LOCATION AND SCREENING

- (A) **No Pools in Minimum Front Yard Setback.** No pools shall be permitted in the minimum building setback portion of the front yard.
- (B) **Criteria for Pool Location in Other Portions of Front Yard.** A front yard pool may be permitted, other than in the minimum setback portion of the front yard, upon a finding by the Planning, Zoning and Variance Board that the following criteria are met:
 - (1) There is a minimum distance of fifty (50) feet from the property line or the street right-of-way (whichever is farthest) to any part of the pool, including walkways and other improvements used in connection with the pool;
 - (2) The pool equipment and related structures are shielded from view from the street and adjoining properties by a combination of walls and landscaping, including hedges and plantings;
 - (3) The pool and related structures are in harmony with, and compatible with, other residences in the neighborhood in material, size, structure and design; and
 - (4) The placement of a pool will not have a substantial adverse economic affect on adjoining and surrounding residences.
- (C) **Application, Notice and Site Plan.**
 - (1) **Notice.** Notice of a front yard pool application shall be mailed to adjoining neighbors by the Town Building Department at least twenty (20) days prior to application being heard by the Planning, Zoning and Variance Board.
 - (2) **Site Plan Requirements.** Any applicant for a front yard pool shall submit a site plan setting forth the above required information, with particular emphasis on shielding the view of the pool, with its associated activities and noise, from the street and from neighboring residences. The Planning, Zoning and Variance Board shall review the site plan and issue approval only if all requirements as set forth herein are met.

161.14 BUILDING AND SETBACK REQUIREMENTS FOR SCREEN ENCLOSURES AND SWIMMING POOLS

- (A) **Definition of Screen Enclosure.** "Screened enclosure" shall mean those enclosures utilizing screen on sides and on the entire top. Screened enclosure for purposes of this Ordinance does not include screened areas utilizing material other than screen on top except that material needed for support of the screen.

- (B) **Districts Where Permitted.** Screened enclosures with or without swimming pools is a permitted accessory use in R1A Single Family; RIB Single Family; Zero Lot Line; R2A Single Family; Multi Family zoning districts and any subsequently adopted residential zoning unless specifically prohibited.
- (C) **Side and Rear Setbacks.**
- (1) Screened enclosures must be set back a minimum of ten (10) feet from side and rear lot lines.
 - (2) Swimming pools including walkways, decks and any structure utilized with the swimming pool without a screened enclosure must be set back a minimum of ten (10) feet from side and rear lot lines.
 - (3) The height of side walls of screened enclosures shall not exceed nine (9) feet. The maximum height of a screened enclosure shall not exceed twelve (12) feet. If the screened enclosure is within a single-family residential setback, the screened enclosures can be to a height of thirty feet (30) or to the residence roof line, whichever is less.

161.15. SETBACK AND ELEVATION OF SWIMMING POOLS ON RESIDENTIAL LOTS ABUTTING INLAND WATERWAYS

- (A) **Applicability.** This Ordinance applies to swimming pools constructed on residential lots abutting inland waterways as defined in Chapter 169, Definitions of the Land Development Code, Town of Indian River Shores. This Ordinance shall only apply to swimming pools constructed after the original date of this Ordinance.
- (B) **Definition of Swimming Pool.** "Swimming pool" for the purposes of this Ordinance shall include the pool deck, coping and all other construction accessory to the swimming pool.
- (C) **Setback for Swimming Pool.** No part of the swimming pool as defined herein may be located within ten (10) feet of the rear lot line or ten (10) feet of the mean high water line, whichever is closest to the residence.
- (D) **Elevation of Pool or Related Fence, and Wall.** The maximum elevation of swimming pools shall not exceed the finish floor of the first level of the residence. Any fence or wall to be constructed in connection with the pool, and located within twenty-five (25) feet of the mean high water line, shall not exceed four (4) feet above the deck of the pool.
- (E) **Screen Enclosures.** No screen enclosure shall be constructed within thirty (30) feet of the mean high water mark. This provision shall apply prospectively only and shall not prevent repair, reconstruction or replacement of any pool screened enclosure in existence within thirty (30) feet of the mean high water mark at the time of the original adoption of this Ordinance.

161.16 REQUIRED HOA/CONDOMINIUM ASSOCIATION BUILDING PLAN APPROVAL

- (A) **Submittal of Proof of Review.** At the time of application for a single family residence building permit, the applicant must present written proof the plans have been submitted to and approved by the designated architectural review committee for the subdivision or development in which the construction is to occur.
- (B) **Required Written Statement Where Inapplicable.** If the subdivision or other development has no building review requirements, then the permit applicant shall make a written statement to that effect which may be relied upon by the Town Building Official for issuance of a building permit.
- (C) **Town Assumes No Liability.** By adoption of this Ordinance, the Town of Indian River Shores does not undertake any liability for failure of applicant to comply with private building requirements.

161.17 SITING OF COMMUNICATION TOWERS AND ANTENNAS

- (A) **Definitions.** The following terms shall have the meaning set forth in this section:

Camouflaged Communication Tower. A tower designed to unobtrusively blend into the existing surroundings and be disguised so as to not have the appearance of a communication tower. Such structures shall be considered communication towers and not spires, belfries, cupolas or other appurtenances usually required to be placed above the roof level for purposes of applying height limitations. Due to their height, such structures must be designed with sensitivity to elements such as building bulk, massing and architectural treatment of both the tower and surrounding development. Camouflaged towers on developed property must be disguised to appear as either a part of the structure housing the principal use or an accessory structure that is normally associated with the principal use occupying the property. Camouflaged towers developed on unimproved property must be disguised to blend in with existing vegetation. An example of a camouflaged communication tower is a tower constructed in the form and shape of a tree in order to appear to be part of a forested area, or a tower constructed to appear to be part of the

structure such as a gable or chimney.

Communication Antenna. An antenna designed to transmit or receive communications as authorized by the Federal Communications Commission.

Communication Tower. A tower greater than thirty-five (35) feet in height (including antenna) that supports communication (transmission or receiving) equipment. The term communication tower shall not include amateur radio operators' equipment, licensed by the Federal Communications Commission (FCC). No tower shall exceed fifty (50) feet in height (including antenna) when free-standing, or forty (40) percent over the building height when placed on top of buildings, except as provided in (1) below:

- (1) A tower not to exceed one hundred thirty-five (135) feet in height may be permitted by the Town if all of the following criteria are met:
 - (a) The Town determines that a serious deficiency in coverage exists that can only be corrected by adding cell tower coverage;
 - (b) The Town determines that the height needs to be increased over the fifty (50) foot level to obtain reasonable coverage within the Town;
 - (c) That location of a tower of up to one hundred thirty-five (135) feet is placed to have minimal adverse effect on surrounding and nearby residences; and
 - (d) That location of a tower of up to one hundred thirty-five (135) feet in height has coverage advantages for the Public Safety Department of the Town. (Ord. 524)

(B) General Requirements.

- (1) **Compliance with Applicable Federal Regulations.** Communication towers and communication antennas must comply with all applicable Federal Aviation Administration (FAA) and FCC Regulations.
- (2) **Height of Tower.** The tower shall not exceed fifty (50) feet in height (including antenna) when free standing, or forty (40) percent over the building height when placed on top of buildings unless the Town undertakes a comprehensive assessment of the communication needs for the Town and determines a greater height is necessary. Among the considerations of the Town shall be the quality of cellular service, the collocation of service providers on one (1) tower, camouflage considerations and projected future needs for reasonable coverage within the Town. The considerations listed herein are meant to be illustrative only and all other provisions set forth in Section 161.17 shall be considered and applied as the facts warrant.
- (3) **Landscaping.** The visual impacts of a communication tower shall be mitigated for nearby viewers through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering of communication towers shall be required around the perimeter of the tower and accessory structures. Landscaping shall be installed on the outside of fences. Further, the use of existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for, or in supplement towards, meeting landscaping requirements.
 - (a) A row of trees a minimum of eight (8) feet tall and a maximum of twenty-five (25) feet apart shall be planted around the perimeter of the fence;
 - (b) A continuous hedge at least thirty (30) inches high at planting capable of growing to at least thirty-six (36) inches in height within eighteen (18) months shall be planted in front of the tree line referenced above; and
 - (c) All landscaping shall be of the evergreen variety.
- (4) **Type of Construction.** Communication towers shall be monopole construction whenever possible. Other forms of camouflaged communication towers may be considered, provided however in granting a request for such towers, the Town's Planning, Zoning and Variance Board shall consider:
 - (a) Compatibility with adjacent properties;
 - (b) Architectural consistency with adjacent properties;
 - (c) Visual impact on adjacent properties, including visual access of adjacent properties to sunlight; and

- (d) Design of accessory structures in order to be architecturally consistent with the existing structures on the site. A variance/waiver from the fencing and landscaping requirements of this section may be requested for such accessory structures.
- (5) **Development Criteria.** Communication towers/antennas shall comply with the minimum development criteria of the district in which they are located, pertaining to minimum lot size and open space.
- (6) **Illumination.** Communication towers/antennas shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration.
- (7) **Collocation.**
- (a) **Monopole Towers.** Monopole communication towers shall be engineered and constructed to accommodate a minimum of one (1) additional communication service provider.
- (b) **Camouflaged Towers.** Camouflaged communication towers may be engineered and constructed without accommodating additional communication service providers.
- (c) **Within Electrical Substations.** Communication towers located within electrical substations may be engineered and constructed without accommodating additional communication service providers. Such towers shall be monopole construction and shall be subject to all of the requirements of this Section.
- (d) **Public Benefits.** If the Town determines that the proposed tower is situated in a location that benefits the Town's telecommunication systems, then the tower shall be engineered and constructed to accommodate the additional telecommunicating equipment beneficial to the public system at no cost to the Town.
- (e) **Collocation On-Site.** A communication tower which is being rebuilt to accommodate the collocation of an additional communication antenna may be moved onsite within fifty (50) feet of its existing location; however the antenna shall meet all setback requirements. After the communication tower is rebuilt to accommodate collocation, only one (1) tower may remain on the site.
- (f) **Relocation Measurements; Violations.** A relocated onsite communication tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers. The relocation of a tower in accordance with this subsection shall in no way be deemed to cause a violation of any other Section. The onsite relocation of a communication tower which comes within the separation distances to residentially zoned lands or residential uses shall require variance approval.
- (8) **Non-Interference.** No communication tower or antenna shall interfere with public safety communication. Frequency coordination is required to ensure noninterference with public safety system and/or public safety entities.
- (9) **Documentation.** Documentation to demonstrate conformance with the requirements of this Ordinance shall be submitted by the applicant with all requests to construct, locate or modify a communication tower/antenna. A statement by the applicant as to how construction of the communication tower will accommodate collocation of additional antennas for future users shall be included with the documentation.
- (10) **Signs and Advertising.** The use of any portion of a tower for sign or advertising purposes including, without limitation, company name, banners or streamers is prohibited.
- (11) **Abandonment.** In the event the use of any communication tower has been discontinued for a period of one hundred eighty (180) consecutive days, the tower shall be deemed to have been abandoned. Upon such abandonment, the owner/operator of the tower shall have an additional one hundred eighty (180) days within which to:
- (a) Reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower; or
- (b) Dismantle and remove the tower. The Owner of the real property shall be ultimately responsible for all costs of dismantling and removal, and in the event the tower is not removed within one hundred eighty (180) days of abandonment, the Town may proceed to do so and assess the costs against the real property. The lien of such assessment shall bear interest, have priority and be collectable at the same rate and in like manner as provided for special assessments by Florida law. At the earlier of one hundred eighty-one (181) days from the date of abandonment without reactivation, or upon completion of dismantling and removal, any special exception, waiver and/or variance approval for the tower shall automatically expire.

(C) Communication Towers and Communications Antennas in Zoning Districts of Town.

- (1) **Location.** Communication towers and communication antennas must locate on existing tower or buildings wherever feasible.
 - (a) When located on top of buildings, communication towers shall be set back at least ten (10) feet from the edge of the buildings;
 - (b) Communication towers and communication antennas shall not exceed greater than forty (40) percent of the building height; and
 - (c) Shall not be subject to the performance and construction standards for free standing towers contained elsewhere in this Ordinance pertaining to separation distances, fencing, landscaping and collocation.
- (2) **Placement on Utility Poles Prohibited.** Utility poles shall not be considered towers or buildings upon which antennas and/or towers are to be located.
- (3) **Freestanding Towers.** New freestanding communication towers/communication antennas shall not be allowed unless the applicant:
 - (a) Secures a Waiver pursuant to the Land Development Code requirements upon an affirmative showing:
 - (i) That existing towers and buildings do not technologically afford the applicant the ability to provide service to the service area of the applicant or service provider; and
 - (ii) That the geographical boundaries of the proposed service area cannot technologically be bifurcated to avoid the necessity for a free standing tower/antenna; and
 - (b) Secures a conditional use approval, pursuant to the Land Development Code, to place the communication tower and/or communication antenna within one of the following zoning categories:
 - (i) CIA Limited Commercial,
 - (ii) P Public District, or
 - (iii) AG Agricultural.

(D) New Facilities. New communication towers shall conform to the following:

- (1) **Site Plan Required; Design.** New communication towers shall require full site plan submittal. The engineer shall certify that the tower is designated such that in the event of collapse it will fall within the specified fall radius equal to one hundred ten (110) percent of the tower height and, if applicable, the facility is properly designed to accommodate antenna collocation. The following shall also apply:
 - (a) No existing structure is, or may be located within, the fall radius of a tower;
 - (b) New tower sites may be required to provide one (1) stabilized, sodded parking space;
 - (c) The perimeter of communication tower base, all ground mounted support equipment, driveways and parking shall be screened in accordance with the off-street parking requirements of the Town of Indian River Shores Landscape and Tree Protection Ordinance; and
 - (d) Chain link fencing at tower bases and ground mounted support facilities shall be coated with black or green vinyl.
- (2) **Height Limitations.** The tower shall not exceed fifty (50) feet in height (including antenna) when free standing, or forty (40) percent over the building height when placed on top of buildings unless the Town undertakes a comprehensive assessment of the communication needs for the Town and determines a greater height is necessary. Among the considerations of the Town shall be the quality of cellular service, the collocation of service providers on one (1) tower, camouflage considerations and projected future needs for reasonable coverage within the Town. The considerations listed herein are meant to be illustrative only and all other provisions set forth in Section 161.17 shall be considered and applied as the facts warrant.
- (3) **Structure Type.** New commercial communications towers shall be only of a monopole or camouflage design.

- (4) **Restrictions on Non-Collocated Towers.** Commercial communication towers not designed for collocation must have a minimum site separation distance of five thousand (5,000) feet. Towers designed for collocation and with at least two (2) providers at the time of site plan approval may have a minimum site separation of one thousand five hundred (1,500) feet.
- (E) **Application.** Any application for new communication facilities covered by this Ordinance shall be on a form prescribed by the Town and shall be accompanied by a reasonable charge as established by the Town Building Official for processing such application, including a reasonable charge for technological expertise to assist Town staff in evaluating the request.
- (F) **Use of Town Right of Way.** Any prospective user of Town owned right of way for communication facilities as contemplated in the Telecommunications Act of 1996 shall make reasonable payment for use of Town right of way in an amount permitted under the Act. The Town may engage technological expertise and determine a reasonable charge for such use.
- (G) **Applicability.**
- (1) All new communication towers and communication antennas in the Town shall be subject to these regulations and all other applicable regulations. For purposes of measurement, communication tower setbacks and separation distances as listed in this Ordinance shall be calculated and applied irrespective of municipal and county jurisdictional boundaries.
 - (2) All communication towers legally existing on the effective date of this Ordinance shall be considered permitted uses allowed to continue their usage as they presently exist; provided however anything other than routine maintenance, including without limitation, structural modifications including provisions for additional antennas or additional providers and/or new construction on an existing communication tower, shall comply with the requirements of this Ordinance. Routine maintenance shall be permitted on such existing towers.
 - (3) All government towers with public safety systems or equipment shall be exempt from this Ordinance.

161.18 ROOF ENCROACHMENTS INTO EASEMENTS AND SETBACKS

- (A) **Setback Encroachment.** No building roof overhang may extend into any building setback requirement in excess of three (3) feet.
- (B) **Easement Encroachment.** No building roof overhang may extend into any utility or other dedicated easement.

161.19 SEA TURTLE PROTECTION

- (A) **Definitions.** The following terms shall have the meaning set forth in this section:

Artificial Light. Any fixed source of light emanating from a manmade device, including but not limited to, incandescent, mercury-vapor, metal halide, LED or sodium-vapor lamps, floodlights, spotlights, street lights, parking lot lights, construction or security lights.

Beach. Beach means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. "Beach" is alternatively termed "shore".

Beach Access Point. Any path through or over the dune used by the general public; or with respect to private property, by the owners or with the owner's permission, for the purpose of gaining access to the beach.

Coastal Construction. The carrying out of any activity within jurisdiction boundaries to modify or improve site conditions including, but not limited to, building, clearing, filling excavation, beach/dune preservation, stabilization or restoration projects, mechanical beach cleaning, grading or planting of vegetation or the making of any material change in the size or use of any structure or the appearance of site conditions, or the presence of equipment or material upon such sites.

Direct Illumination of the Beach. Light from a point source that is sufficiently strong to cast a detectable shadow on the beach on a dark, moonless night.

FDEP. Florida Department of Environmental Protection.

FWC. Florida Fish and Wildlife Conservation Commission.

Jurisdictional Boundary. The area between the Atlantic Ocean and the Coastal Construction Control Line as established by the

State of Florida, except that the exterior lighting restrictions shall include the area between the Atlantic Ocean to a point one hundred (100) feet west of the Coastal Construction Control Line within the corporate limits of the Town of Indian River Shores. A map depicting the area shall be maintained in the office of the Town Clerk. For properties located partially within the Jurisdictional boundary, the requirements of this Ordinance shall apply to the entire property.

Light Fixture. The structural mechanism which, or within which, the point source of light is attached.

Low-profile Luminaire. A light fixture set on a base where the point source of light is no higher than forty-eight (48) inches off the ground and is designed in such a way that light is directed downward from hooded light source.

Motorized Vehicle. Includes, but is not limited to, any self-propelled, wheeled, tracked or belted conveyance.

Nesting Season. The period from March 1 through October 31 each year during which sea turtles emerge from the ocean to nest and hatchlings emerge from nests to enter the ocean.

Permit Holder. Any qualified individual, group or organization possessing a current and valid permit from FWC to conduct activities related to sea turtle conservation and recovery.

Person. Any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, company, corporation, group or other entity or unit, or federal, state, county or municipal government.

Point Source of Light. The actual exterior light source such as the bulb, fluorescent tube, lamp, etc. from which light emanates.

Pole Light. Any light fixture set on a base or pole where the point source of light is higher than forty-eight (48) inches off the ground.

Primary Dune. Dune means a mound or ridge of loose sediments, usually sand-sized, lying landward of the beach and deposited by natural or artificial means.

(B) **Purpose.** The purpose of this article is to recognize the unique characteristics of the sea turtle nesting cycle and to prevent or minimize the hazards adversely impacting nesting females and their hatchlings from any or all of the following: coastal construction activity; beachfront lighting; beach/dune preservation, stabilization and restoration projects; mechanical beach cleaning; and other coastal activities disruptive to the nesting cycle.

(C) **New Development.**

(1) **Minimize Artificial Light.** It is the policy of the Town to minimize artificial beachfront lighting and to minimize impacts to sea turtles and their nesting habitat resulting from coastal construction activities. To meet this intent, all coastal construction within the corporate limits of the Town for which a building permit is issued on or after the effective date of the article shall comply with conditions set forth in this section.

(2) **Lighting Standards.** In the Town's jurisdictional boundaries, the following lighting standards shall apply:

- (a) Both public and private balcony and exterior lighting fixtures installed within direct line-of-sight of the beach shall be designed/positioned such that:
 - (i) The point source of light or any reflective surface of the light fixture is not directly visible from the beach; and
 - (ii) Areas seaward of the primary dune are not directly or indirectly illuminated.
- (b) Outside lighting shall be held to the minimum necessary for safety and security.
- (c) Only low-intensity recessed or louvered lighting, or other appropriate low intensity lighting, shall be used on beach access points, dune crossovers, beach walkways, piers or any other structure designed for pedestrian traffic on or seaward of the primary dune. This lighting shall meet the same criteria for other types of exterior lights as set forth in subsection (2) (a) above.
- (d) Facility design and site plans shall incorporate, as appropriate, the use of hedges, native dune vegetation and/or other physical barriers (e.g., privacy fences, walls, etc.) to shield vehicular lighting from the beach.
- (e) Temporary security lights at construction sites shall be mounted no more than fifteen (15) feet above the ground. In no case shall such lights directly illuminate any area of the beach.

- (f) Permanent exterior lighting resulting from coastal construction approved by the Town prior to the effective date of this article shall be considered as existing development and standards set forth in Section (D) below shall apply.
 - (g) The Town does not intend to regulate the interior lighting of dwellings, but recommends that beachfront residents be mindful of the potentially adverse effects of their interior lighting. Beachside stairwells or lighted common areas of oceanfront units should utilize a cover, shield or window filming to diminish lighting that can be seen from the beach. Should interior lighting be so bright and so positioned as to illuminate the beach, it can create a false beacon for sea turtle hatchlings. Although the light is produced within a dwelling, that light can have consequences outside those confines.
- (3) **General Standards for Coastal Construction.** Coastal construction occurring seaward of the primary dune during any portion of the nesting season shall be conducted during daylight hours except in emergency situations as approved by FWC or other agency having jurisdiction.

(D) **Existing Development, Including Publicly Owned Lighting.**

- (1) **Beachfront Lighting Criteria.** Existing development must comply with all beachfront lighting provisions of this section. To meet this intent, the following criteria shall apply to all public and private artificial exterior lights within jurisdictional boundaries of the Town:
- (a) No exterior point source of light shall be directly visible from ground level on any area of the beach; and
 - (b) No point source of light shall directly illuminate any area of the beach seaward of the primary dune.
- (2) **Required Timing of Lighting Modifications.** Exterior artificial lighting associated with existing structures that does not comply with criteria set forth in Section (D)(1) above shall be immediately modified with one (1) or a combination of the options listed below:
- (a) Permanently remove the fixture;
 - (b) Disconnect the point source of light;
 - (c) Reposition the fixture so the point source of light is no longer visible from the beach;
 - (d) Replace fixtures having exposed point sources with fixtures containing recessed point sources;
 - (e) Replace non-directional fixtures with directional fixtures;
 - (f) Replace fixtures having transparent or translucent coverings with fixtures having opaque coverings;
 - (g) Affix a shield covering an arc of at least one hundred eighty (180) degrees and extending an appropriate distance below the bottom edge of the fixture to the ocean side of an existing fixture so the light source is no longer visible from the beach;
 - (h) Replace pole lamps with low-profile luminaries;
 - (i) Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;
 - (j) Construct a structural barrier to shield the light source from view; and/or
 - (k) Replace high-intensity floodlights or parking lot lights with low-pressure sodium-vapor lights.
- (3) **Permanent and Temporary Lighting Modifications.** Permanent modifications to existing lights not conforming to standards set forth in Section (D) (1) above are preferred. Temporary modifications used to bring lights into compliance with Section (D) (1) must remain in effect throughout the entire nesting season each year.
- (E) **Prohibition of Activities Disruptive to Sea Turtles.** To protect sea turtles and their hatchlings, the following activities are prohibited on or seaward of the primary dune during the nesting season (March 1-October 31):
- (1) The operation of motorized vehicles, except in cases of emergency or as otherwise approved by FWC or the Town;
 - (2) Horseback riding; and

- (3) Campfires.
- (F) **Standards for Beach Access Points.** To increase general public awareness of the need for protecting sea turtles and to alert the public to possible penalties resulting from the molestation of sea turtles or the destruction of their nests and eggs, the following standards shall apply:
- (1) **Permanent Sea Turtle Information Signs.** Permanent sea turtle information signs shall be posted by the Town at all public beach access points provided with dune crossovers. The signs shall be standardized by the Town and positioned to be conspicuous to persons accessing the beach.
- (G) **Beach/Dune Preservation, Stabilization or Restoration.** All coastal construction within jurisdictional boundaries associated with beach/dune preservation, stabilization or restoration projects shall comply with the following conditions:
- (1) Coastal construction activities occurring seaward of the primary dune during any portion of the nesting season shall be conducted during daylight hours except in emergency situations as approved by FWC or the Town.
- (2) Restored and stabilized dunes shall be vegetated with authorized native, salt-tolerant plants suited to the beach/dune environment and irrigated by a temporary sprinkler system which does not broadcast water seaward of the toe of the primary dune.
- (H) **Standards for Mechanical Beach Cleaning.** A permit is required from the FDEP and the Town for all beach cleaning activities to remove debris from the beach through the use of motorized vehicles or other mechanical means. In addition, beach cleaning activities shall comply with the following conditions:
- (1) Beach cleaning shall be conducted only during daylight hours;
- (2) Any person engaging in mechanical beach cleaning activities during any portion of the nesting season shall satisfy all local, state and federal laws prior to engaging in such activities; and
- (3) All beach cleaning operations shall be coordinated through the appropriate state agency to ensure that these operations do not interfere with state sanctioned scientific studies of sea turtles nesting activities.
- (I) **Compliance Inspections.** Periodic nighttime lighting inspections shall be performed from the beach to determine the extent of compliance with this article. The inspections shall be conducted at least annually until existing beachfront lighting has been brought into compliance. Inspections shall include both public and private properties within jurisdictional boundaries.
- (J) **Enforcement and Penalty.** If any of the provisions of this article are being violated, the property owner or perpetrator of such violations shall be notified by written warning from the Town Code Enforcement Officer, indicating the nature of the violation and ordering any action necessary to correct it. Enforcement action may result from inspections conducted as provided above or from public complaint. Each person who commits, attempts to commit, conspires to commit or aids and abets in the commission of any act declared herein to be in violation of this article, whether individually or in connection with one (1) or more persons, or as a principal, agent or accessory, shall be guilty of such offense. Any person found guilty of violating any provisions of this article, after a first written warning from the Town Code Enforcement Officer, shall be punished in accordance with Section 10.99 of the Town Code of Ordinances. Each day the violation continues shall be deemed a separate offense. In addition to any other remedies, civil or criminal, violations of this article may at the option of the Town be enforced by the Code Enforcement Board, which may impose administrative fines and liens in accordance with the Town's Code Enforcement Board ordinance.
- (K) **Local Approvals Not Exclusive.** Approvals required pursuant to this article shall be in addition to, and not in lieu of, any federal, state, regional or other local approvals which may be required for the same or similar activities. Similarly, compliance with provisions of this article does not excuse any person from having to comply with other applicable federal, state, regional or local laws.