

**MUNICIPALITY OF SANTA CRUZ.  
ENVIRONMENTAL COMMISSION**

**MATTER:** Report of the Environmental Commission regarding the creation of the Zoning Regulation and administration of the Areas bordering the Las Baulas Marine Park in Guanacaste.

**BACKGROUND AND RATIONALE:**

There are multiple agreements of this Municipal Council supporting the community's actions in regard to the problems that affect them, mainly due to the apathy of the main public entities that no longer exercise their tasks in an opportune manner.

Regarding the protection of the correct use of natural resources in our Canton, the actions of the Associations of Rural Aqueducts, of Communal Development, and Conservationists have been well received, since they put in practice the principle of civil participation in the local public administration. The product we are currently analyzing is precisely the result of a participative initiative that had the constant technical support of the National University and that implements solutions of conservation and a rational use of the land along the coasts of Playa Grande, Ventanas, and Langosta, before the worry presented to this Council by the population of said communities on November thirteenth two thousand four, when a public hearing was held in order to receive the parties interested in the bill for the Expansion, Consolidation, and Development of the Las Baulas National Marine Park in Guanacaste.

Precedents of this Council's in seeking the public purpose of an adequate protection of local interests are precisely the agreements adopted in sessions:.....

In compliance with the mandate granted by the Municipal Council to this commission, we proceeded to research and analyze the alternative proposed with due care, as well as its scientific, factual, and legal support; and the consequent need to seek an adequate method to adjust both the protection of the coastal area of Playa Langosta, Playa Grande, and Playa Ventanas – preferred for the nesting of the **leatherback turtles** (*Demochelys Coriacea*) – as well as the surrounding areas.

The constitutional norms are clear when under the protection of number 170 it states that: “***The municipal corporations are autonomous***” and it tells us that said autonomy must be understood in the terms of article 169, that is in “**The administration of the local interests and services in each Canton**” competence assigned to the **Municipal Government, made up by a deliberating body, formed by municipal governors of popular election and an executive member that will be appointed by law.**”

With wisdom, the municipal governor Zapata Castillo mentioned in Regular Meeting 31-2004 held on December 13, 2004 how sometimes by protecting we leave our own unprotected; he stated how in Ostional, the attitude of avoiding at all costs an “environmental impact” to the nesting site of the marine turtles,

placed the children of the local school in a poor situation when receiving their classes, since it did not permit the replacement of the school's corrugated iron roof because it was located in an absorption area of the Ostional Refuge.

Said concern led us to investigate if the alternative examined favored an adequate regulation of the different fundamental and collective rights in question, reason for which we started with the revision of the purposes that should inspire public actions in environmental matters. Thus, we found the following in Article 4 of the Organic Environmental Law:

**“Article 4: Objectives. The objectives of the present law are:**

- a) Promote and achieve harmony between humans and their environment.**
- b) Satisfy the basic human needs without limiting the options of future generations.**
- c) Promote the necessary efforts to avoid and minimize the damages that may be caused to the environment.**
- d) Regulate human conduct, either individual or collective, and the public or private activity regarding the environment, as well as the relationships and actions that arise from environmental use and conservation...”**

Reflecting in this sense we can conclude that, indeed one of the motives that inspires our recommendation to the Council is that in order for the recommendations made by the UNA to be respected they must be developed as a regulation since, as mere declarations of principles they do not have a binding nature and they will not become an effective means of protection. Therefore, we consider that the implementation of these recommendations as the **“Zoning Regulations”** adopted by the Municipal Council and published in their totality as per that stated in Article 4, subsection a) of the Municipal Council is convenient.

***“Article 4: The Municipality has the political, administrative, and financial autonomy granted to it by the Political Constitution. Among its attributions are:***

- a) Issue autonomous organization and service regulations, as well as any other stipulation authorized by the legal ordinance.”***

Additionally, we seek to revise the constitutionality of the initiative based on the criteria of the Constitutional Court with regard to the scope of the municipal competence in the attention of local problems and we found that:

***“Each municipality is responsible of offering the solution considered most adequate for their own local problems, which must obviously be done respecting the judicial norms that define the frame of action in which they may perform, either the urban point of view, or that of public health and the applicable municipal ordinances, among others, the Municipal Code, the***

urban development plans in force and the General Health Law.”  
*Constitutional Court Vote N° 459-97*

“The municipalities are the ones in charge of assuming the local urban plans through the approval of the corresponding regulations

...  
***The Court considers that the power attributed to the local governments to plan the urban development within the limits of their territory includes the constitutional concept of “local interests and services” referred to in article 169 of the Constitution, competence acknowledged by the Law on Urban Planning.”***

*Constitutional Court Vote N° 423-97. (In a similar sense: 4205-96, 4857-96, 5757-94, 2153-93, 6706-93, 1684-91; among others).*

***“Article 169 of the Political Constitution granted the municipalities powers to administrate the local interests and services; and in the development of this precept, articles 15 of the Law on Urban Planning and 44 of the Municipal Code acknowledge the competence of the local governments to supervise urban planning within the limits of their territory, through the enactment and coactive imposition of a regulating plan and of the corresponding urban development regulations; tending to the complete execution of the first, in virtue of that power of local planning, it is possible to impose restrictions to the exercise of one of the attributes of domain, as long as – it is clear- these result reasonable and do not empty the content of the property right or limit in an absolute manner its essential attributes.”***

*Constitutional Court Vote N° 6419-96. (In a similar sense: 4957-96, 5306, 5097, both of 1993).*

“Based on the above and in accordance with the jurisprudence mentioned, is that we repeat the thesis that **the competence of the urban ordinance is still an exclusive attribute of the municipal governments**, and only in an exceptional and residual manner, in the absence of regulations issued in this effect by the municipalities, is that the INVU has been assigned the task of proposing regulating plans, but they must be previously approved by the local entity; thus **the stipulations issued in this effect by the autonomous institution in what refers to urban planning, must always be considered transitory and in defect of the use of the municipal competences.**”

*Constitutional Court Vote N° 4857-96.*

In conclusion we can see, based on the constitutional jurisprudence that this Commission transcribed in part in this document, that more than a power, the Constitution obliges the municipalities **to seek and implement the most adequate solutions to their own local problems.** This is based, as explained

in the decisions analyzed, on the fact that the Constitution establishes in its Article 169 that: “the administration of the local interests and services in each canton will correspond to the Municipal Government... “ being the Constituent’s express will to grant the specific and exclusive competence (original competence) to the local governments, in **taking actions of effective protection of their interests, that even when local, result relevant to other effects.**

Considering the different stages that led to the preparation of the final document we are analyzing and that we enclose in the form of a regulation, we can ensure that it deals with the problem in a close manner since its solutions were adopted based on a participative technical process. This mechanism is fair and necessary since it is undeniable that whatever the subject, it is the communities who directly suffer the impact of the government’s erratic policies and management, for example: if the national banking system stops supporting offering credits for micro and small companies, our single mothers, who are also heads of family, are the ones who will no longer have access to preferential loans.

In the exercise of our duties, we have been promoters and participants of the process that resulted in the final document presented by the National University, which has been discussed at great length and elaborated by a multi-disciplinary team; which, even more important to point out is that it has been a democratic and participative process, since it involved the affected community, scientists, investigators, and leaders, all with the purpose of correctly attending to the problem and offering a more integrated solution.

The adequate and ample participation of all the sectors involved in this matter, as well as the technical studies made by professionals of well-known experience, was of constant help to this Commission in establishing that the criteria of Conservation of Natural Resources both exists and is applicable through sustainable programs in adequate harmony with the development of our communities and their habitants without reducing their activities and rights, in complete accord and compliance of our laws and regulations.

This commission considers that the initiative analyzed must be accepted and this is recommended to the Council, since the Costa Rican municipal regimen, autonomous by a constitutional rule, is obliged not only to the correct administration of local interests but also to balance the protection of the environment and the development of the area in such a way that the well-being of present and future generations is adequately ensured. Even when it is true that this initiative does not end the debate over the extinction of the leatherback turtle, it is also true that the rest of the actions must come from the Government that has sovereignty over territorial and continental waters in which intense fishing activities are carried out.

**Recommendation:**

Considering all that previously stated, this Commission in compliance with the regulations and jurisprudence mentioned, agrees to recommend to this Honorable Municipal Council that it adopt the text recommended for the Zoning

Regulations for the Areas Bordering the Las Baulas Marine Park in Guanacaste, its corresponding approval, publication, and execution, granting our communities the local urban planning through the enactment of the corresponding urban development regulations as corresponds, according to that established by the legislation in force, and therefore comply with the constitutional mandate to administrate the local interests and services as corresponds to the municipal government.

**ZONING REGULATIONS**

DISTRICT OF CABO VELAS, coastal area: Playa Langosta, Playa Barca Quebrada, Punta San Francisco, Playa Tamarindo, Playa Grande, Playa Ventana, Playa Carbón, Playa Cabuya, Playa Pedregosa, Playa Minas, Playa Honda, Playa Roble, Playa Real, and Playa Nombre De Jesús.

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## MUNICIPALITY OF SANTA CRUZ

The Municipal Council of the Municipality of the Canton of Santa Cruz, in accordance with the powers granted in articles 4 paragraph a), 13 paragraphs c) and d) of the Municipal Code, and Article 169 and 170 of the Political Constitution, through agreement N° .....paragraph n°..... adopted in regular meeting N° .....-05 held on ..... 2005, **unanimously** approved the municipal regulations called:

### ZONING REGULATIONS DISTRICT OF CABO VELAS, COASTAL SECTOR: Playa Langosta, Playa Barca Quebrada, Punta San Francisco, Playa Tamarindo, Playa Grande, Playa Ventana, Playa Carbón, Playa Cabuya, Playa Pedregosa, Playa Minas, Playa Honda, Playa Roble, Playa Real, and Playa Nombre De Jesús.

#### CHAPTER I General Dispositions.

**Article 1.º- Scope of application:** The dispositions included in these articles will be obligatory for all development (works, project, or activity), located within the coordinates....., and they become basic criteria of the local ordinance, along with the mechanisms established in article 30 of the Organic Environmental Law, based on:

- a) Respect for the cultural, historical, and social characteristics of the human populations involved.
- b) Population and resource projections.
- c) Natural resources, renewable and non-renewable, the predominant economic activities, capacity of use of the soil, and the zoning by products and activities, based on ecological and productive considerations.
- d) The effect of human activities and natural phenomena on the environment.
- e) The balance that must necessarily exist between the human settlements and their environmental conditions.
- f) The diversity of the landscape.
- g) The existing infrastructure.

It also collects the principles of protection established in Decree 25018-MIRENEM and it considers the beach a special protected area for the **nesting of the leatherback turtle (*Dermochelyidae coriacea*)**.

**Article 2.º- Definitions:** the concepts used in these Regulations will have the meaning established herein, unless the contrary is specifically established.

1. *Access:* Road towards which the front of a plot o property faces.
2. *Activity, works, or project:* Set of actions necessary for the planning, construction of structures, the development of productive activities, or the development of services, including those necessary for the abandonment of the activity or technical closing. The activities related with the elaboration of programs, policies, and plans, either for the territorial development or ordinance or the use of geographic

spaces for economic, social, infrastructure, energetic, tourism, mining, and urban development will also be included in this group, as long as they determine human actions or activities that alter or destroy elements of the environment or generate waste, toxic, or dangerous materials.

3. *Bed and Breakfast*: Establishment of rustic, comfortable characteristics that offers lodging services especially to athletes or groups united by a common interest or activity. There are several modalities whose additional characteristics or services vary according to their specialization and based on them they will receive the most appropriate name.
4. *Maximum height*: established from the property to the highest point of the structure.
5. *Furnished*: Set of urban elements, such as benches, garbage cans, tables, posts, and signs that act as support to the services, for the comfort of the user.
6. *Area of Influence of the project*: The geographic strip of fifteen (fifty?) meters in width that includes a dense green barrier, of at least one meter in width, whose purpose is to prevent the passing of the light toward the beach area. This section needs to be better defined or may suffer translation errors. I assume it relates to the 50 meter zone (Public Zone, Article 2.43) from the mean high tide line that already exists. I do not understand what the “dense green barrier, of at least 1 meter in width” means as all the vegetation in the 50 meter protected zone should be protected.
7. *Green areas*: Free areas with grass or trees, of public use, communal, destined to the recreation and ornamentation of the community.
8. *Vegetable or Green Barrier*: Element that acts as a separation between plots, yards, or gardens in properties.
9. *Cabin*: Establishment that offers lodging services for a daily or monthly rate, with independent units, with one or more rooms, private bathroom, kitchen, independent entrance from the outside and parking for the guest's vehicles.
10. *Camping Areas*: Establishment that offers rental services for a daily or monthly rate of lands, duly demarcated and equipped to make life in the outdoors easier, in which se overnight stays are in tents, habitable trailers, or similar.
11. *Guest Houses*: Establishment similar to a boarding house but that doesn't offer food services.
12. *Certificate of use*: Document in which the possibility to use a portion of the land for the construction of the works included in these regulations is established. Said certificate will be issued by the Municipality of Santa Cruz upon request of the interested party. *Zone Certificate*: Municipal proof that authorizes the use that corresponds to a specific property.
13. *Conservation*: In urbanism, it is the action that, according to that established in the Plans of urban Development, is oriented to maintaining the environmental balance, the good state of the material works (buildings, monuments, plazas, and parks), and, in general, all that makes up the historical, cultural, and social heritage of the

population centers. I think this section should also mention conservation of the existing environment and the species that utilize it.

14. *Construction*: All the structures fixed on or included on a property: it includes any construction, remodeling, or extension works that imply continuance.
15. *Net Density*: It will be understood as the ratio of habitants divided by the total surface of land occupied, previously reducing the roads.
16. *Density*: Consists in the number of temporary or permanent residents per unit of area (in this case the estimated unit of area is the hectare).
17. *Right of way*: It is the measure of the area of public use, taken between the demarcation lines established by the Ministry of Public Works and Transportation (MOPT), the corresponding Municipality, or a Regulating Plan.
18. *Structures*: All those works destined to housing, offices, recreation, tourism, etc.
19. *Non-caducifolian Species*:
20. *Residence hotel*: A hotel that does not offer food services.
21. *Hotel*: It is a type of establishment with a minimum of twenty rooms, or more according to the corresponding category, that offers lodging services for a daily rate, as well as food upon the client's choice. It must occupy the totality of a building or a part of it that is absolutely independent, with dependencies that make up a homogenous whole, with entrances, halls, stairs, and elevators for the exclusive use of the establishment.
22. *Offender*: Individual, corporation, or any governmental dependency that does not comply with the present Zoning Regulations.
23. *Infrastructure*: Services and installations of urban nature, such as: roads, drainages, aqueducts, sewage systems, electricity, and telephone service, among others.
24. *Plot*: A plot of land of any size, given either in concession or in private property.
25. *Restoration and Recovery Measures*: Those actions destined to favor or accelerate the recovery of natural and socio-cultural resources, ecosystems, and habitats altered by the realization of an activity, works, or project, recreating as far as possible, the original structure and function, in accordance with the knowledge of the prior conditions.
26. *Number of floors*: It must be understood as total floors or total or partial coverage of the floor area (the mezzanine is considered a floor).
27. *Occupation*: (Maximum Capacity) Consists in the percentage of the property that can be covered by habitable or non-habitable constructed areas such as accesses, parking areas, pools, and other non-natural coverage; the internal green areas are considered residual areas not included in the percentage of occupation, they must be destined to gardens, lakes, fruit trees, ornamentals, etc.
28. *Boarding House*: A type of small establishment that is normally managed as a family business, with a minimum capacity of three

- rooms and that offers food services within the complete or half boarding plan, in a single global rate.
29. *Beach*: “The ocean shore when it is sandy and presents a sort of soft incline... The beaches and ocean shores are, in general, goods of public domain. And as a beach we understand the extension of land that the waves cover and clear in the highest tides, and not in extraordinary occasions of storms” **(CABANELLAS (Guillermo) Diccionario Enciclopédico de Derecho Usual, Editorial Heliasta, p. 268)**
  30. *Owner*: The person(s), company(ies), or dependency(ies) that have a title deed over properties bordering the Marine Coastal Zone.
  31. *Protection*: The area in which urban works are subject to restrictions.
  32. *Front Retreats*: Open spaces without structures found between a structure and the boundaries of the corresponding plot.
  33. *Significance of the Environmental Impact*: Consists in the qualitative valuation of a specific environmental impact, within the context of a valuation process and the harmonization of criteria such as the existing environmental regulatory framework, the purpose of planned use for the area to be developed, its condition of environmental fragility, the possible social effect that could occur and the relationship of the project’s environmental parameters. [Needs more definitions, who defines the environmental impact?](#)
  34. *Nesting season*: (from March fifteenth through October fifteenth of each year). [This should be October through March, please check with Scientists at the National University.](#)
  35. *Urbanization*: Is the fractioning and fitting out of a property for urban purposes through the opening of roads and the offering of services.
  36. *Conditional Use*: The use that even though is not the most recommended for the conditions of the property, does not generate conflict with the permitted uses. This use can be given to a property, prior special authorization of the Municipality and the Costa Rican Institute of Tourism, through a certificate.
  37. *Conflictive Use*: The use that does not adjust to the zoning indicated in the Regulating Plan. Conflictive uses are not allowed under any circumstance.
  38. *Permitted Use*: The use of the property or plot to which the concessionary has the possibility to destine its property without further restrictions than those indicated herein and prior processing of the construction permits required by the Municipality of Santa Cruz.
  39. *Use*: Use, by the owner, of areas or properties.
  40. *Public road*: Spaces destined to the passing of vehicles or pedestrians.
  41. *Tourism housing*: A type of establishment that offers lodging services for a daily or monthly rate, with independent units or one or more rooms, private bathroom, kitchen, independent entrance from the outside and parking for guest vehicles.
  42. *Single-family housing*: Is a structure equipped with housing areas destined to lodging a single family.
  43. *Public Zone*: the fifty-meter wide strip to be calculated from the ordinary high tide, and the areas that remain uncovered during low tide; as well as islet, rocky outcrops, and other small areas and

natural formations that stick out from the ocean correspond to the public zone.

44. *Zoning*: The division of a territory in areas of use, for the effects of its rational development. The objective of the municipal action is to orient the physical-spatial development of a specific geographic area, with the purpose of protecting natural resources in a balanced way, thus creating a pattern of conservation and development of human activities in harmony with the site's natural conditions, guaranteeing the security of the p species, favoring the development, health, economy, and general well-being of the national and foreign population.

## CHAPTER II Zone 1 “Playa Grande South”

### Section I. Generalities

**Article 3.º- Delimitation:** These regulations will cover all development included or located between marker IGN N° 1, located south of the Housing Development Villas Playa Grande and the Palm Beach Housing Development on Playa Grande, central area of importance for the nesting of the Leatherback turtles. Said strip of land will cover a width of *two hundred meters* as of the limit of the inalienable public zone, and said developments will be determined under the following regulations

**Article 4.º- Uses of the land:** For the previously demarked sector, the following will be considered compatible and incompatible uses. If there were a use not listed in any of the subgroups established herein, the Municipality will grant the use of the land attending to the requested characteristics of use and of those established in these regulations.

#### *Permitted Uses*

- Priority homes or recreational tourism homes. In the case of small hotels or bed and breakfast of less than twenty rooms
- Secondary: low impact commercial establishments, such as restaurants, sodas, bed and breakfast, small souvenir stores.
- Hotels to be built on the regulated zone may not surpass a maximum density of twenty rooms per hectare.

#### *Conflictive Uses*

- Industrial, mining, extractive commercial, houses of social interest, marinas and moorings, structures of any type in the public zone, service stations, or commercial establishments of mechanical and industrial services, among others.
- The hotels to be built in the regulated area may not surpass a maximum density of twenty rooms per hectare.

### Section 2. Fractioning and Urbanization

**Article 5.º-Minimum area of the plot.** The minimum density of individual plots will be of one thousand two hundred square meters. The minimum unit for segregations is of one thousand two hundred square meters.

**Article 6.º- Area of Influence of the project.** All the properties must leave a strip of land of fifteen meters in width consisting of a “mitigation area” that will include a dense “green wall”, of at least a meter in width, (is this 15 meter, minimum 1 meter strip in addition to the 50 meter Public zone (Article 2.43)?) with the objective of avoiding the passing of light towards the beach area. It will be made up by non-caducifoliar (I am not a botanist, representatives from the National University should determine the accuracy of the exclusion of “non-caducifoliar (not deciduous) species, all throughout the bordering area of the inalienable public zone of fifty meters of the National Park. The constructions that surpass a meter in height will have a fifteen-meter retreat from the property line.

**Article 7.º-Maximum construction area.** The maximum construction coverage of the property is of 40% (recommend 30% maximum construction area) in individual plots.

**Article 8.º-Reserve of green areas.** The new housing developments will have to reserve a minimum of twenty per cent (recommend 40% with 30% native dune species nearest the area of the Las Baulas Park) of green areas, preferably directed toward the area of the park.

Only structures designed for housing units or recreational tourism homes will be authorized. In the case of small hotels or bed and breakfast of less than twenty rooms, they will be built according to the guidelines of construction coverage stated for that effect.

**Article 9.º-Commercial Areas.** Of the properties located in the bordering areas of the *habitats* of greater nesting, only twenty (recommend no commercial use in these more sensitive areas) per cent of the developable areas will be authorized to be destined to low impact commercial use, such as restaurants, sodas, *Bed and Breakfast*, small souvenir stores, among others.

**Article 10.º- Height of the structures.** The structures located in the fifty-meter strip bordering the “*public zone*”, may not surpass nine (recommend 3 meters maximum (one story)) meters in height.

Outside the fifty meters described, and up to a distance of two hundred meters, measured as of the inalienable public zone of the National Park, the structures may not surpass a maximum height of fourteen (recommend 99 meters maximum height) meters. Likewise, the areas located outside the two hundred meters, will be governed by that stated in the corresponding national legislation and the municipal regulations concordant with this management plan, mainly in what refers to the density of the structures. However, the heights mentioned could be subject to changes based on an environmental impact study that establishes or supports the need or advisability of a different height.

**Article 11.º- Rooftops.** The structures must use brick, “mud”, or terra cotta colored slates (or imitation of slates) on their rooftops.

**Article 12.º- Pools.** The pools built on the properties covered by these regulations must have water-purifying systems of an ionizing type or another type of low consumption of chemicals that could impact the habitat we are trying to protect. (recommend that pool decks should be at least 20 centimeters above ground level to keep indigenous species such as crabs from drowning in the pool)

**Article 13.º- Sonic Contamination.** During the nesting season, the emission of noise that surpasses fifteen (this needs to be checked by more qualified people (or it suffered translation) 60 decibels is the level of normal human conversation, this may need to be in the 60 to 70 decibel range.) decibels, measured on the limit of the public zone of fifty meters is prohibited. As sea turtles hear poorly out of the water except for low frequencies more attention may appropriately be directed restricting low frequency sounds (bass, construction, explosions, etc)

**Article 14.º- Lighting.** Lighting will have the most negative impact on sea turtle nesting so a code or ordinance addressing allowable lighting in Playa Grande is crucial to the success of this code in sea turtle conservation. I encourage the inclusion of a lighting code modeled after successful lighting codes presented in the “EvaluationofPlayaGrandeandSurroundingAreaCOMPRESSED.pdf” to protect nesting sea turtles and their hatchlings. The lighting devices placed in visible places from the beach, can not be oriented toward the ocean and if these are light bulbs along the trails, they will have a maximum power of up to 35 watts (because of the wide variety of light sources available now wattage cannot define a light source unless it is defined as “incandescent-equivalent” or specifically designated to the light source such as fluorescent or halogen watts. 35 watts incandescent equivalent maximum is good. and they can not be located at more than eighty-five centimeters in height.

Likewise, the constructions bordering the area of the “vegetable or green barrier”, next to the nesting beaches, will have their vehicle parking areas and garages oriented and located in such a way that the lights of the vehicles will not be directed toward the beaches.

These norms will promote the installation of special lighting systems internationally accepted for the protection of turtles.

Lights that emit wavelengths in the yellow to red spectrums significantly reduces negative impacts to nesting female sea turtles and their emergent hatchlings. Lighting sources that emit significant energies below 580 nanometers such as metal halide, halogen, mercury vapor, and some fluorescents should be severely restricted for out door use nationwide. Low pressure sodium, bug lights, and red filtered lights should be the lights of choice.

**Article 15.º- Sewage.** For the treatment of sewage these regulations only authorize, as corresponds, treatment plants of residual waters that operate on double septic tanks. With low density housing septic tanks may be acceptable, but research in the

Florida Keys demonstrated that septic tanks from the many communities in the Keys were responsible for the decline of the local reefs. I believe a central sewage facility would be required at least by the attainment of maximal density of the development.

In general, discharge on the beach of canalized or piped rainwater is not permitted. The existing constructions that violate these dispositions must be modified in this sense.

The rain drainages, in general, may be led toward streams, as long as the impact on the stream's water is mitigated as well as the impact of the streams on the ocean.

No private well of drinkable water may be built at a distance smaller than 50 meters from the sub-drainages of septic tanks. The ministry of Health must be requested to analyze the potability of the water extracted from the existing wells.

In the front line of the construction, no solid walls may be built. The case of retaining walls necessary in the works declared of public interest for reasons of emergency are excluded. Seawalls built merely to protect beachfront property from rising sea levels should be completely prohibited.

**Article 16.º- Entry Restrictions.** As determined by the authorities of the Ministry of the Environment and Energy, during the nesting season, the entrance of visitors to the nesting beaches located in the National Park will be restricted.

**Article 17.º- Animal Control.** A strict control of the behavior of pets that could affect both adult turtles and their eggs and newborns will be demanded. Development should severely restrict the availability of waste and garbage at each plot to prevent unnatural increases in the populations of sea turtle nest predators such as raccoons and coatimundi. Increases of the populations of nest predators would constitute a severe negative impact on the nesting leatherback population in Playa Grande.

Feeding of wild animals should also be prohibited to insure the health of the wild animals and the well being of sea turtle nests.

**Article 18.º- Limited research.** The owners of the areas regulated in these regulations, will not favor or promote the use of their installations for "research" projects that lead to, among others, the manipulation of the leatherback turtles in any state of their development.

## CHAPTER II "Playa Grande North " Zone

### Section 1. Generalities

**Article 19.º- Delimitation of the developed areas.** These regulations will cover all existing development on Playa Grande and Ventanas, specifically in the Housing Units Villas de Playa Grande and Playa Grande Estates, located from marker IGN N° 1 towards the North, as well as the Palm Beach Housing Development; the

properties located to the South of Palm Beach and Playa Langosta, said developments will be governed by the following regulations

Since these properties have been developed for about twenty-five years, the guidelines established in these regulations will not be applicable and even when they represent conflictive uses in the context of that regulated in Chapter I, they will be respected since they are acquired rights and they may be maintained with the following limitations:

1. It may not be extended or remodeled without prior authorization of the Municipality of Santa Cruz.
2. It may not be changed to another conflictive use, unless it is more compatible with the use stated herein, as per the judgment of the Municipality.

**Article 20.º- Uses of the land:** For the previously demarked sector, the following will be considered compatible and incompatible uses. If there were a use not listed in any of the subgroups established herein, the Municipality will grant the use of the land attending to the requested characteristics of use and of those established in these regulations.

***Permitted Uses***

- Priority homes or recreational tourism homes. In the case of small hotels or bed and breakfast of less than twenty rooms
- Secondary: low impact commercial establishments, such as restaurants, sodas, bed and breakfast, small souvenir stores.
- Hotels to be built on the regulated zone may not surpass a maximum density of twenty rooms per hectare.

***Conflictive Uses***

- Industrial, mining, extractive commercial, houses of social interest, marinas and moorings, structures of any type in the public zone, service stations, or commercial establishments of mechanical and industrial services, among others.
- The hotels to be built in the regulated area may not surpass a maximum density of twenty rooms per hectare.

**Section 2. Fractioning and Urbanization**

**Article 21.º- Minimum area of the plot.** The minimum density of individual plots will be of one thousand two hundred square meters. The minimum unit for segregations is of one thousand two hundred square meters.

**Article 22.º- Area of Influence of the Project.** All the properties must leave a strip of land of fifteen meters in width consisting of a “mitigation area” that will include a dense “green wall”, of at least a meter in width, (is this 15 meter, minimum 1 meter strip in addition to the 50 meter Public zone (Article 2.43)?) with the objective of avoiding the passing of light towards the beach area. It will be made up by non-caducifolian (I am not a botanist, representatives from the National

University should determine the accuracy of the exclusion of “non-caducifolin (not deciduous) species, all throughout the bordering area of the inalienable public zone of fifty meters of the National Park. The constructions that surpass a meter in height will have a fifteen-meter retreat from the property line. If the light is totally controlled on the plot (house and adjoining installations) this guideline will an alternative to be considered.

**Article 23.º-Front Retreats.** A fifteen-meter retreat from the property line must be respected in order to start constructions on elevated lands (that surpass a meter in height).

**Article 24.º-Maximum construction area.** The maximum construction coverage of the land is sixty (recommend 30% maximum construction area) five per cent in the individual plots.

**Article 25.º-Reserve of green areas.** The new housing developments will have to reserve a minimum of twenty (recommend 40% with 30% native dune species nearest the area of the Las Baulas Park) per cent of green areas, preferably directed toward the area of the park.

Only structures designed for housing units or recreational tourism homes will be authorized. In the case of small hotels or bed and breakfast of less than twenty rooms, they will be built according to the guidelines of construction coverage stated for that effect.

**Article 26.º-Commercial Areas.** Of the properties located in the bordering areas of the *habitats* of greater nesting, only twenty per cent of the developable areas (recommend no commercial use in these more sensitive areas) will be authorized to be destined to low impact commercial use, such as restaurants, sodas, *Bed and Breakfast*, small souvenir stores, among others.

**Article 27.º-Height** The structures located in the fifty-meter strip bordering the “*public zone*”, may not surpass nine (recommend 3 meter maximum height) meters in height.

Likewise, the areas located outside the two hundred meters, will be governed by that stated in the corresponding national legislation and the municipal regulations concordant with this management plan, mainly in what refers to the density of the structures. However, the heights mentioned could be subject to changes based on an environmental impact study that establishes or supports the need or advisability of a different height.

**Article 28.º Rooftops.** The structures must use brick, “mud”, or terra cotta colored slates (or imitation of slates) on their rooftops.

**Article 29.º- Pools.** The pools built on the properties covered by these regulations must have a water purifying system of an ionizing type or another type of low consumption of chemicals that could impact the habitat we are trying to protect. (recommend that pool decks should be at least 20 centimeters above ground level to keep indigenous species such as crabs from drowning in the pool)

**Article 30.º- Sonic Contamination.** During the nesting season, the emission of noise that surpasses fifteen (this needs to be checked by more qualified people (or it suffered translation) 60 decibels is the level of normal human conversation, this may need to be in the 60 to 70 decibel range.) decibels, measured on the limit of the public zone of fifty meters is prohibited. As sea turtles hear poorly out of the water except for low frequencies more attention may appropriately be directed restricting low frequency sounds (bass, construction, explosions, etc)

**Article 31.º- Lighting.** Lighting will have the most negative impact on sea turtle nesting so a code or ordinance addressing allowable lighting in Playa Grande is crucial to the success of this code in sea turtle conservation. I encourage the inclusion of a lighting code modeled after successful lighting codes presented in the “EvaluationofPlayaGrandeandSurroundingAreaCOMPRESSED.pdf” to protect nesting sea turtles and their hatchlings. The lighting devices placed in visible places from the beach, can not be oriented toward the ocean and if these are light bulbs along the trails, they will have a maximum power of up to 35 watts (because of the wide variety of light sources available now wattage cannot define a light source unless it is defined as “incandescent-equivalent” or specifically designated to the light source such as fluorescent or halogen watts. 35 watts incandescent equivalent maximum is good. and they can not be located at more than eighty-five centimeters in height.

Likewise, the constructions bordering the area of the “vegetable or green barrier”, next to the nesting beaches, will have their vehicle parking areas and garages oriented and located in such a way that the lights of the vehicles will not be directed toward the beaches.

These norms will promote the installation of special lighting systems internationally accepted for the protection of turtles.

Lights that emit wavelengths in the yellow to red spectrums significantly reduces negative impacts to nesting female sea turtles and their emergent hatchlings. Lighting sources that emit significant energies below 580 nanometers such as metal halide, halogen, mercury vapor, and some fluorescents should be severely restricted for out door use nationwide. Low pressure sodium, bug lights, and red filtered lights should be the lights of choice.

**Article 32.º- Parking Lots and garages.** The constructions bordering the nesting beach will have their vehicle parking areas and garages in places where the vehicle lights are not located or oriented toward the public zone.

**Article 33.º- Sewage.** For the treatment of sewage these regulations only authorize, as corresponds, treatment plants of residual waters that operate on double septic tanks. With low density housing septic tanks may be acceptable, but research in the Florida Keys demonstrated that septic tanks from the many communities in the Keys were responsible for the decline of the local reefs. I believe a central sewage

facility would be required at least by the attainment of maximal density of the development.

In general, discharge on the beach of canalized or piped rainwater is not permitted. The existing constructions that violate these dispositions must be modified in this sense.

The rain drainages, in general, may be led toward streams, as long as the impact on the stream's water is mitigated as well as the impact of the streams on the ocean.

No private well of drinkable water may be built at a distance smaller than 50 meters from the sub-drainages of septic tanks. The ministry of Health must be requested to analyze the potability of the water extracted from the existing wells.

In the front line of the construction, no solid walls may be built. The case of retaining walls necessary in the works declared of public interest for reasons of emergency are excluded. Seawalls built merely to protect beachfront property from rising sea levels should be completely prohibited.

**Article 34.º- Entry Restrictions.** As determined by the authorities of the Ministry of the Environment and Energy, during the nesting season, the entrance of visitors to the nesting beaches located in the National Park will be restricted.

**Article 35.º- Animal Control.** A strict control of the behavior of pets that could affect both adult turtles and their eggs and newborns will be demanded. Development should severely restrict the availability of waste and garbage at each plot to prevent unnatural increases in the populations of sea turtle nest predators such as raccoons and coatimundi. Increases of the populations of nest predators would constitute a severe negative impact on the nesting leatherback population in Playa Grande.

Feeding of wild animals should also be prohibited to insure the health of the wild animals and the well being of sea turtle nests.

**Article 36.º- Limited research.** The owners of the areas regulated in these norms, will not favor or promote the use of their installations for "research" projects that lead to, among others, the manipulation of the leatherback turtles in any state of their development.

**AQUI FALTA EL CAPITULO IV Zona "Playa Grande Sur" Coordenada LAMBERT N257 500N E334 000 a N259 500 E 332 250 Este capitulo tiene que ser casi el mismo que el del sector norte. La traducción tiene que respetar la versión publicada...**

### CHAPTER III Sector of Matapalo

*Article 37. Sustainable development.* Regarding the **community of Matapalo**, duly organized in the “Association of Integrated Development of Matapalo” and concordant with the principles of sustainable development, development actions related to the use of natural resources, and with the presence of the National Marine Park Las Baulas in Guanacaste will be developed.

*Article 38. Activities promoted:* The possibility to carry out activities of eco-tourism related to the presence of the estuary and the fauna refuge of Tamarindo, for example, the organization of visits in which the guides are residents of the town of Matapalo.

*Article 39. Promotion of the activity of Tourism Guides.* As an effective measure to extend to the residents of Matapalo the benefits derived from the existence itself of the National Park, an obligatory norm in which it is clearly determined that, according to training possibilities, the authorized guides to orient the visitors to the National Park will be chosen from the residents of this town will be promoted through the central authorities of the **MINAE**.

*Article 40. Promotion of associative participation.* Continuing with the prime interest of including the residents of the area in an integrated development process in accordance with the present management plan, we invite the central authorities of the **MINAE** to formally include the communities of Matapalo and Playa Grande in the management tasks of the National Park. For this the integration of various associations that clearly represent both communities will be promoted.

### CHAPTER IV Final Dispositions

*Article 41. Principles and dispositions of additional application.* The principles and requirements established herein, are norms of obligatory application for the coastal areas included within the demarcation of the National Marine Park Las Baulas in Guanacaste and, in the event of a normative absence, the urban solutions on the following beaches must be based on them: playa Langosta, playa Barca Quebrada, punta San Francisco, playa Tamarindo, playa Grande, playa Ventana, playa Carbón, playa Cabuya, playa Pedregosa, playa Minas, playa Honda, playa Roble, playa Real, and playa Nombre de Jesús.

*Article 42. General observations.* At least the security guidelines for environmental and human protection explained in detail in these regulations and the following must be complied with:

a) Vehicle access to the beach will not be permitted in any of the sectors regulated herein. (you may want to allow small all terrain vehicles (ATV's) to be allowed on the beach by permitted individuals or MINAE personnel)

1. For works on land in the coastal area:
  - a) Before starting the construction, the contractor will meet with members of the Municipal Council and the Office of Urban Development of the National Institute of Housing and Urban Development in order to clarify the conditions of the permit and prove the existence of environmental feasibility granted by SETENA.
  - b) Construction or excavation materials may not be placed or stored in the public zone.
  - c) All the properties affected must be evenly leveled. (this requirement will have a large negative impact on native and existing vegetation) The replacement of vegetation must be done immediately after the construction; on the contrary, the soil must be temporarily stabilized through the use of manure, straw, and jute or similar until the weather conditions are favorable for sowing.
  - d) In those cases in which a temporary disturbance of the coastal features, the slopes of the beach, (if this implies alteration in the Public area, I would not recommend this section) the absorption areas, or the coastal area is authorized, the affected area must be completely restored on the account of the owner and with the guidance of SETENA.
2. In the case of works on plots bordering the beach on the top part, the following measures will be taken in order to minimize erosion:
  - a) Prior to carrying out any filling, excavation, leveling works, or any other movement of lands, stabbed hay packs, buried at least ten centimeters into the ground must be placed in the entire inferior perimeter of the area destined to the construction, and the packs must be replaced as many times as necessary until the permanent replacement of the vegetation has been established. No type of soil or material must surpass the limit of the packs.
  - b) Unless the contrary is specified and approved, all slopes must be returned to their original state.
  - c) In those cases in which the natural or artificial slopes are in an erosion process, leveling works may be carried out to achieve their balance, repopulating with plants with thick "brush" type roots and, whenever possible, with vegetation of the area.
  - d) The construction must be programmed to adjust to the dry season in order to avoid water currents from falling on the exposed lands, excavations, or unstable soils.
  - e) Sedimentary waters may not be discharged into natural streams, which must be protected throughout their banks with fences made with hay packs that can intercept all possible sediments.
3. For the individual or collective systems of sewage, the necessary approval, studies on the quality of the soil, infiltration trials, location and corresponding design must be presented.

- a) Drainages in filling areas near natural streams, even when they are intermittent, or in the surrounding areas of the beach will not be permitted under any circumstance.
- b) The aqueduct systems and rainwater drains must prove that they can be connected to the public system; if the latter does not exist the services may be provided without the extraction of the water at the site or the disposal of sewage and rainwater having a significant impact on the environment or public health.