

**LEGISLATIVE ASSEMBLY OF THE
REPUBLIC OF COSTA RICA**

**Law for the Rectification of the Limits of the National Park Las Baulas and the
Creation of the Mixed Property National Wildlife Refuge Las Baulas**

File Number 17,383

PROJECT LAW

Rectification of the Limits of the National Park Las Baulas and the Creation of the Mixed Property National Wildlife Refuge Las Baulas

RATIONALE

File Number 17,383

- 1. Whereas the Costa Rican state is obligated to satisfy the public interest, striving to serve the public goals, always complying with the constitutional parameters regarding proportionality and reasonability (See Votes 1739-92, 3933-98, 8858-98, 05236-99 and 2858-00, all by the Constitutional Court), inasmuch as paying due respect to the legal mandate associated with the univocal rules of science and technology. In compliance with the constitutional and legal attributions established, the Ministry of the Environment, Energy and Telecommunications, has proceeded to evaluate the situation of the Marine National Park Las Baulas, Guanacaste. The aforesaid because in respect to its creation, delimitation and consolidation, a series of juridical and administrative actuations, have obligated the State to review the background and the related actuations to date, with the view to efficaciously protect the leatherback sea turtle during its nesting phase, as well as the available resources, human as well as material and budgetary.**
- 2. Whereas the analysis performed by MINAET had as its starting point the reiterated constitutional jurisprudence (to this regard see Votes 10101-07, 11675-08, 8770-08, 07549-08 and 18529-08, all from the Constitutional Court), with respect to the obligation of the State to**

expropriate the private lands which are to be included under the regime of any of the current management categories. The aforesaid because only after the just price is cancelled, private property maintains its status and may not be affected by limitations inherent to a protected wild land. The aforesaid constitutes an essential element for the analysis performed, in that the interpretation of the General Attorney of the Republic as regards the limits of the National Park, stands in contrast to the available budgetary resources to perform the corresponding expropriations.

- 3. Thereof, on the one part, standing clearly that the objective of the Marine National Park Las Baulas, Guanacaste, was to exclusively protect the leatherback sea turtle during its nesting phase. which can only happen in sandy beaches, wide and free of rocks and boulders, and, on the other, lacking the budgetary resources to cancel the just price of the affectations derived by the interpretation of the General Attorney of the Republic, a novel scheme is proposed in order to achieve the environmental objective, without committing the public resources destined to the protected wild lands, by means of an issue that may be resolved in a more integrated, participative and resource-efficient manner without sacrificing the environmental objectives.**
- 4. Thereof, MINAET proposes the redefinition of the limits of the Marine National Park Las Baulas, Guanacaste, guaranteeing the nesting process of the leatherback sea turtle in the sector, and simultaneously, contiguous to the immediate zone and included in the limits herein disposed, the Mixed Property National Wildlife Refuge Las Baulas is created, guaranteeing at the same time the respect due private property. With the combination of two pre-existing management categories, each**

exhibiting its own regulatory framework, such as the Law of the National Park Service and the Law for the Conservation of Wildlife, the original objective is guaranteed, and public resources are safeguarded, and a territorial planning is achieved, very difficult to reach by other means in such a short term.

5. Whereas the proposal included in this Law, facilitates the participation of the neighbors under the regime, and accordingly to the mandate of this Law. Therefore, the direct collaboration between the public authorities and the private owners is intended, the latter in readiness to comply with the restrictions and the limitations regarding use, as indicated in this legislative initiative, as a suitable means for the country to attain sustainability schemes, whereby public resources are allocated to better serve the public interest, for example, including trained personnel for the protected wild lands. Doubtlessly, joint management, carrying due respect for current guidelines under each management category, represents an intelligent, efficient and repeatable model for other zones. (Comment- Joint management implies that landowners and developers can veto regulations proposed by Ministry. If repeatable in other places such as Ostional Wildlife Refuge, it guarantees that important regulations to protect turtles will not be implemented if they are not liked by local population. The authority of the State will be restricted and laws protecting turtles will not be enforced. The same is true in national parks. This is a very dangerous and regressive provision. It seems to me that it is unconstitutional since it allows potential or real law breakers to prevent enforcement of laws and regulations. JRS)

6. Whereas, complementarily MINAET has incorporated in this initiative the main recommendations of organizations such as the International Union for the Conservation of Nature (IUCN), the World Wildlife Fund (WWF), the Convention on Migratory Species (CMS), the National Oceanic and Atmospheric Administration (NOAA), the Center for Marine Conservation (CMC), the Species Survival Commission (SSC), and the Marine Sea Turtle Specialist Group (MTSG), included in the document prepared by these organizations called “Management and Conservation Techniques for the Conservation of Sea Turtles”, to guarantee the harmonious development regarding low density and luminosity, and the strict control of eventual environmental impacts. Likewise, efforts are doubled for the protection of sea turtles, as included in the National Marine Coastal Strategy and the National Plan for Fisheries Development. (Comment- This section is false! The IUCN does not have any regulations about nesting beaches. It does define the leatherback turtle as critically endangered and thus requires that it receive the highest level of protection. Building on nesting beaches does not fulfill that requirement. The World Wildlife Fund does not advocate building on sea turtle nesting beaches. The Convention on Migratory Species does not advocate building on nesting beaches. NOAA does not deal with nesting beaches. The Center for Marine Conservation does not advocate building on nesting beaches. Neither does the Species Survival Commission of the IUCN. While the document “Management and Conservation Techniques for the Conservation of Sea Turtles” gives guidelines as how to mitigate the effect of development on nesting beaches, it does not recommend that development take place. If development is present then it provides measures to compensate in part

for such development. The State of Florida has tremendous problems with development of nesting beaches and the loggerhead population of Florida is in fact declining, in part due to that development. The Marine Turtle Specialist Group does not advocate building on sea turtle nesting beaches. JRS)

7. **Whereas, carrying the recognition for the cooperation received on the part of the private owners and as regards the present proposal for the redefinition of the limits, the Costa Rican State has estimated that it is just and legally correct to paralyze and file the expropriation processes of the private lands already initiated.**

In view of the above we hereby present the present project to the Legislative Assembly for its knowledge and approval: Law for the Rectification of the Limits of the National Park Las Baulas and the Creation of the Mixed Property National Wildlife Refuge Las Baulas.

THE LEGISLATIVE ASSEMBLY OF COSTA RICA

DECREES:

Law for the Rectification of the Limits of the Marine National Park Las Baulas

and the

Creation of the Mixed Property National Wildlife Refuge Las Baulas

Chapter I

About the Protected Wild Lands

ARTICLE 1.

The limits of the Marine National Park Las Baulas, created by Law 7524, are ratified, (Comment- If the limits are ratified then the limits are the 75 meters behind the three beaches, cerro El Morror, Cerro Ventanas and other portions as defined in that law. The description below does not ratify the limits of the law. JRS)

and in this manner its limits are those indicated as follows: in accord with the Infrared Photographic Images of the National Center of High Technology, Mission CARTA 2005, photos numbers 6471, 6472, 6473, 6178, 6179, Mission CARTA 2003 photos numbers 4138, 4835, hereon shall become: from the ordinary high tide line up to the line of markers limiting the public zone (Comment- this is not the limit as in the Law. JRS); from marker 157 in Punta Conejo, specifically from the Lambert coordinate N 261262.66, E 332072.41, extending southwards following the line of markers, including

the public zone in Cerro Morro, Playa Carbon, Playa Ventanas and Playa Grande, on to coordinates E 335038, N 254943, on the southern extreme of Playa Grande. Thereon the Park will continue along the public zone beginning at Punta San Francisco, coordinates N 253451, E 333365, and finalize at the southern extreme of Playa Langosta, at coordinates N 251234.3, E 333867.08. Likewise, the Marine National Park Las Baulas shall include, within its limits, the mangrove at Ventanas, the mangrove and the Tamarindo estuary, and the San Francisco mangrove and estuary. It is hereby understood that Las Baulas National Park excludes Playa Tamarindo.

Likewise, the Marine National Park Las Baulas, shall include the marine area comprised by the twelve miles of territorial seas and the inland bodies of water of the Bahía Tamarindo, located facing the coast from Punta Conejo along the Lambert coordinates N 261311, E 332058, and following the line of markers, to the southern extreme of Playa Langosta. The southwestern extreme of the Park shall be located along the coordinates N 250214, E 317435 and the northeastern extreme shall be located along coordinates N 261500, N 317435.

The larger and smaller islands within these marine limits shall be part of the Marine National Park Las Baulas.

ARTICLE 2.

The Mixed Property National Wildlife Refuge Las Baulas is created herewith. This Refuge shall include the private land included in a band of land 50 meters wide, (Comment- This ignores the Law that puts all of Cerro El Morro in the Park. JRS) measured inland from the line of markers defining the Public Zone, specifically in the Cerro Morro, with Lambert coordinates from point E 331898.1681, N 260947.0925,

marker 147; up to the point of coordinates E 332072.4124, N 261262.6675, marker 157; wherein markers 148, 149, 150, 151, 152, 153, 154, 155 and 156 are included. In addition to the band of land of 150 meters (Comment- same as above JRS) measured at the line of markers defining the Public Zone, between the Lambert coordinates E 331743.7822, N 259238.7105, marker 85; following to the point of coordinates E 331743.7822, N 259238.6505, marker 146; included in these coordinates are markers 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, and 145. At Playa Carbon between the Lambert coordinates E 332461.5131, N 259249.1725, marker 84; markers 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82 and 83 are included therein. At the Playa Ventanas sector the Lambert coordinates, from the point with coordinates E 332461.5131, N 259130.63, marker 53, to the point with coordinates E 333418, N 258245. At the northern Playa Grande sector the Lambert coordinates from point E 333418 N 258245, to the point of coordinates E 334044, N 257545. At the central sector of Playa Grande the Lambert coordinates from point E 334044, N 257545, to the point of coordinates E 334720, N 256360. At the southern Playa Grande sector the Lambert coordinates E 334720, N 256360, to the point with coordinates E 335038, N 254867.0879. Included in these coordinates are the following markers: at Playa Ventanas 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48; at northern Playa Grande markers 23, 24, 25, 26, 27, 65 and 66; at the central sector of Playa Grande markers 28, 29, 61 and 64; at the southern sector of Playa Grande markers 67, 30, 68, 69, 31, 70, 71, 72, 73, 74, 32 and 5. At the Playa Langosta sector the point included in the Lambert coordinates E 333710.81, N 252081.99, marker 194; to the point of coordinates R 333867.08, N 251234.82, marker 18, which include

markers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,14,15, 16, 17, 18, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195 and 196. Likewise, other markers included in these zones and which have not been expressly indicated.

At Playa Ventanas, the Refuge includes the portion of private lands located between the Public Zone of Playa Ventanas and the Public Zone of the Ventanas mangroves, initiating at the southern extreme of the Playa Carbon sector and to the point of coordinates E 258508 N 333240, on the southern extreme of the Ventanas mangroves.

These lands shall remain included in the Refuge for equal and consecutive periods of ten years each one, these periods renovated automatically, as long as the public objective motivating the creation of this Refuge is maintained. The aforementioned does not stand against the compliance of the legal requisites established by the Law for the Conservation of Wildlife Number 7317, its Bylaws and reforms. (Comment- This provision allows the dissolution of the Refuge in 10 years. JRS)

Additionally, the private land owners holding property titles adjacent to the Mixed Property National Wildlife Refuge Las Baulas, are compelled to, voluntarily, take steps before the Ministry of the Environment, Energy and Telecommunications, thereon MINAET, for the inclusion of additional private areas, therefore being subjected to compliance with the Management Plan in place for the protected wild areas.

Additionally, other landowners of the zone, interested in conservation and who

demonstrate connectivity with public interest according to this law, can also be included in this regime. They will also be compelled to follow the current regulations corresponding to the conformation of the zone adjacent to the Refuge.

The State recognizes that the private lands included in the Mixed Property National Wildlife Refuge Las Baulas are not included in the Natural Patrimony of the State.

Therefore, it ratifies that the private properties located in the aforementioned Refuge will enjoy all the rights and attributes authorized in Article 45 of the Political Constitution.

ARTICLE 3. Definitions and References.

DEFINITIONS AND REFERENCES

- 1. Inland Waters:** Constitute inland bodies of water located in the interior of the base lines of the territorial sea. Their exterior limits are the territorial sea and their interior limits are firm or solid ground.
- 2. Maximum Height:** Vertical distance measured, between the base level of the first story and the level of the roof lintel or maximum height, if higher.
- 3. Maximum Coverage:** The maximum horizontal projection of a structure on each property according to the zone or the land area covered by it, which does not include terraces, accesses or sidewalks. (Comment-By not including terraces, accesses and sidewalks this provision allows essentially all of a property to be covered by impervious (hard) surface. JRS)
- 4. Maximum Population Density:** Related to the number of families or people in one residential unit and its surface in hectares (5 people per house).

5. **Residential Density:** Defined as the maximum number of residences per hectare.
6. **Tourist Developments:** All civil constructions dedicated to tourism, such as restaurants, in harmony with the public objectives of this law.
7. **Minimum Beach Front:** The minimum distance the property line shall have parallel to the line of markers of the Pubic Zone.
8. **Recreational and Sports Installations:** Installations for recreation, sports and similar activities, in harmony with the objectives of this law.
9. **Property Line:** The line that marks the limits of each particular property.
10. **Condominium Regime:** All segregations and/or buildings allowed by this Law may comply with the legislation of the Law to Regulate Properties in Condominium, number 7933 and its Bylaws.
11. **Minimum Beachfront Setbacks:** The space included between the property line parallel to the line of markers and the nearest portion of the physical structure.
12. **Frontal Setbacks:** The constructions-free spaces located between the fronting limits of the land property (lot) and the nearest portion of the physical structure. In case this coincides with the beach front setback, the latter will predominate.
13. **Lateral Setbacks:** The construction-free space, included from the lateral limit of the land property (lot).
14. **Posterior Setbacks:** The construction-free space included between the posterior limits of the land property (lot), and the nearest portion of the physical structure. In case this coincides with the beach front setback, the latter will predominate. (Comment- As seen below these setbacks is as small as 3 meters from the beach and allow construction to be within 3 m of the property line. JRS)
15. **Minimum lot area for new segregations:** The minimum area for each lot in the event of new segregations as specified for each zone of this law.

- 16. Residence:** All structures or precincts, fixed or mobile, constructed, converted or available, that are used to house people, permanently or temporarily.
- 17. Multifamily Housing:** The building constructed as an architectural unit exhibiting independent room areas, suitable to house two or more families.
- 18. Recreational Tourist Residence:** Establishment offering lodging services for a daily or monthly fee, with units constituting independent residences, with one or more rooms, private baths, kitchen, independent entrance from the exterior and parking spaces for the vehicles of guests.
- 19. One family Residence:** The construction provided with room areas to house only one family.
- 20. Mangroves Protection Zone:** The 10 meter band measured from the line of markers for each respective mangrove, except for the physical limitations included in the area of the Refuge, such as pathways and public and private roads. This will represent the only zone for protection and construction setbacks, in relation to the mangroves, in place for the private properties included in the Refuge. (Comment- It is not clear if this provision conforms with the requirements of national law and the RAMSAR Convention for protection of a wetland. In any case it is inadequate. JRS)
- 21. Public Zone:** To the effect of the interpretation of this law, it will be understood as the band of land of 50 meters measured from the high tide line, in conformity with article 10 of the Terrestrial Maritime Law Number 6043.

ARTICLE 4.

Because to date the limits of the Marine National Park Las Baulas have not been defined with precision (Comment- This is a false statement. The Attorney general has clarified the limits of the park in a legal ruling. The limits are clear in law. JRS), the

National Geographic Institute (NGI), following the contents of this law, shall demarcate the precise limits of the terrestrial portion of the Park and the Refuge and draw charts and maps correspondingly; a one-time authorization is hereby issued to perform this demarcation following the publication of the law. To achieve these objectives, the NGI must promptly include sufficient budgetary resources with the view to contract the required professionals to comply with this objective. The Budgetary Authority shall include, in the next ordinary budget, the resources requested by the NGI to comply with this mandate.

The National Geographic Institute will have a maximum period of 12 months, accounted for after the publication of this law, to comply with the work herein described. The non-compliance of this mandate shall bring upon the responsible officers the sanctions established by the General Law for the Public Administration. During this period, the boundaries and rights of the properties included in the Refuge, shall be those established by the respective cadastre plans and the notarized inscriptions.

Chapter III

About the Objectives of the Protected Wild Lands

ARTICLE 5.

The Marine National Park Las Baulas constitutes a specific geographic space limited and reserved by the State for the protection of the leatherback sea turtle, and in this way, ensuring its safe arrival to the beach, without impacts derived from human related activities. Likewise, it shall protect the mangroves and other marine ecosystems included in its limits.

ARTICLE 6.

The Mixed Property National Wildlife Refuge Las Baulas constitutes a terrestrial geographic space, created with the view to minimize the human related impacts to the private properties adjacent to the Marine National Park Las Baulas, by means of a joint cooperation between the State organs and the owners of the private lands which are included in this protected area.

ARTICLE 7.

Both wildlife protected areas regulated by this law must be individually administrated as per each unique regime and in a coordinated manner, bearing in mind that for both the objective remains the protection of the leatherback sea turtle.

Chapter III

Management Plan for the Wildlife Protected Areas

ARTICLE 8.

The Management Plan for the Marine National Park Las Baulas shall be actualized by MINAET during a period of time no longer than 12 months after the publication of this law.

ARTICLE 9.

The Management Plan for the Mixed Property National Wildlife Refuge, shall be developed jointly by MINAET and the association constituted exclusively by the

owners of the land included in the limits established for the Refuge, in agreement to accept the Refuge, in such a way that, in the bylaws of this association, the individual representation for each one of the sectors of the Refuge herein defined is included. (Comment- This is an extremely dangerous provision. It allows the landowners association to veto any regulations proposed by MINAET. This overturns the Management Plan that has already been prepared for the Park by the Tropical Science Center after an extensive scientific and social study. It also makes the wishes of the landowners take precedence over the needs of the turtles as defined by the scientific data already collected at Las Baulas. In addition, it provides a precedent to allow landowners in other areas to prevent the formulation of regulations for a refuge, which, while they are essential to protect a species or ecosystem, are inconvenient to the landowners. This is like letting the fox make the regulations for protection of the chicken house. It is a direct conflict of interest to have the landowners decide the regulations that will restrict their use of their land and property. Only if regulations are made by parties that do not have a financial interest in the refuge can regulations be made that give the turtle primacy, as required by other Costa Rican laws and international conventions and treaties. JRS)

This association shall be constituted within a minimum of four months accounted for after the publication of this law, and constituted following the mandate of the Law of Associations and shall be accredited as such before the Tempisque Conservation Area of the National System of Conservation Areas, that shall emit the respective approval.

The Management Plan shall be approved during a maximum period of 12 months accounted for after the publication of this law and complying with the official methodology established by MINAET for Wildlife Refuges. During this period, the owners may present their bids to obtain construction permits and Environmental Viabilities, following the regulations herein established.

ARTICLE 10.

The administration of the Mixed Property National Wildlife Refuge Las Baulas corresponds, jointly with MINAET, for the public areas included, and the Association of private landowners, established in the previous article, for the private properties that remain integrated by means of this law to the protection regime.

ARTICLE 11.

The Management Plan for the Mixed Property National Wildlife Refuge Las Baulas will include the planning of the area, wherein, in compliance with article 12, the following uses will be authorized.

- a. One family and multiple family residences, either under the individual or condominium regimes.
- b. Recreational tourism residence.
- c. Recreational installations.
- d. Tourist developments, including ecotourism.
- e. Public and private infrastructure for the availability of public services.

Any other property, independently of its use, may be included under the Regime of Condominium Property.

Any other use planned for the Mixed Property National Wildlife Refuge Las Baulas, must include Environmental Viability approved by the National Technical Environmental Secretariat and the Municipality of Santa Cruz.

ARTICLE 12.

The specific uses authorized by sectors in the Mixed Property National Wildlife Refuge Las Baulas, are the following:

CERRO MORRO

ZONE A Cerro Morro

Location

Zone A runs 50 meters between marker 157 and the point on coordinates N 261214.79, E 332086.93 up to marker 147 and point N 260892.29, E 331874.29. Additionally, from the 75 meter band extending from marker 147 to the point on coordinates N 260853, E331900 to marker 85 and to point N 259331.95, E 331808.70.

Permitted Uses

One-family residences, multifamily residences, recreational tourist residences and recreational installations in forest free zones.

Requirements

Minimum Surface for the lot or registered farm for the new segregation	_____	1200 m ₂
Minimum Beach Front	_____	20 m
Posterior Setback	_____	3 m
Frontal Setback	_____	3 m
Beachfront Setbacks	_____	15 m
Lateral Setbacks	_____	3 m

Maximum Cover _____ 40 % 1 story, 30% 2 stories

Maximum Height _____ 9 m high

Allowed number of stories _____ 2 stories

Density one-Family Residence _____ 8 units /ha

Density multifamily Residence _____ 17 units/ha

In the event the Frontal or Posterior Setback coincides with the Beachfront Setback, the latter shall prevail.

ZONE B Cerro Morro

Location

Zone B is located immediately behind the line defined for zone A and includes the remaining area of this sector of the Refuge.

Permitted Uses

One family residence, multifamily residence, recreational tourist residence and recreational installations on forest free zones.

Requirements

Minimum Surface of the lot or registered farm for new segregation _____ 1200 m²

Minimum Front Beach _____ 15 m

Frontal Setback _____ 15 m

Posterior Setback _____ 3 m

Lateral Setbacks _____ 3 m

For the first story and 1 additional meter for each story in the event a lateral window is in place.

Maximum Cover _____ 40% 1 story and 30% 2 and 3 stories

Maximum Height _____ 12 m high
Number of stories allowed _____ 3 stories
Density One Family Residence _____ 9 units/ha
Density Multifamily Residence _____ 20 units/ha

PLAYA CARBON

ZONE A Playa Carbon

Location

Zone A is located 75 m after the line of markers sanctioned by the National Geographic Institute, throughout this sector in compliance with the limits established for the Refuge.

Permitted Uses

One family residence, multifamily residence, recreational tourist residence and recreational installations.

Requirements

Minimum Surface for the lot or filial farm for new segregation _____ 1200
m_
Minimum Beach Front _____ 20 m
Posterior Setback _____ 3 m
Frontal Setback _____ 3 m
Beachfront Setback _____ 15 m
Lateral Setback _____ 3 m
Maximum Cover _____ 40% 1 story, 30% 2 stories
Maximum Height _____ 9 m high
Number of stories permitted _____ 2 stories

Density One Family Residence _____ 8 units/ha

Density Multifamily Residence _____ 17 units/ha

In the event the Frontal or Posterior Setback coincides with the Beachfront Setback, the latter shall prevail

ZONE B Playa Carbon.

Location

Zone B is located immediately behind the line defined for zone A and up to 200 lineal meters inland, from the high tide line, with the exception of any other additional land the landowner is willing to include in the Refuge.

Permitted Uses

One-family residence, multifamily residence, tourist developments and recreational installations.

Requirements

Minimum Surface of the lot or filial farm for new segregation _____ 1200
m_

Minimum beachfront _____ 20 m

Frontal Setback _____ 5 m

Posterior Setback _____ 3 m

Lateral Setbacks _____ 3 m

Maximum Cover _____ 40% 1 story and 30% 2 and 3 stories

Maximum Height _____ 12 m high

Number of stories allowed _____ 3 stories

Density one Family Residence _____ 9 units/ha

Density Multifamily Residence _____ 20 units/ha

Density Tourist Developments _____ 25 rooms/ha

or 50 guests/ha.

PLAYA VENTANAS

Zone A Playa Ventanas

Location

Zone A is located between the line of markers sanctioned by the National Geographic Institute and the western limit of the estuary of Playa Ventanas, along this sector.

Permitted Uses

One-family residence, recreational tourist residence.

Requirements

Minimum Surface for new segregation of lot or filial farm _____ 1200 m²

Minimum Beach Front _____ 20 m

Posterior Setback _____ 3 m

Frontal Setback _____ 3 m

Beachfront Setback _____ 15% of the property depth, with a maximum of 7.5 meters for existing lots, as well as for the new segregations.

Lateral Setbacks _____ 3 m

Maximum Cover _____ 40% 1 story, 30% 2 stories.

Notwithstanding clause 3 of article 3, and because of the size of the lots currently segregated in this sector, maximum cover will not include accesses, terraces, sidewalks or swimming pools. (Comment- So impervious (water resistant) surfaces can cover the entire area of a property. JRS)

Maximum Height _____ 9 m high

Number of stories allowed _____ 2 stories

In the event the Frontal or Posterior Setback coincides with the Beachfront Setback, the latter will prevail.

The densities herein indicated, will only be applicable to new segregations. In the case of current lots duly segregated and registered in the present, these shall have the right to construct a minimum of one, one-family residence, and, if the area so allows it, the one-family units and/or multifamily units herein permitted.

PLAYA GRANDE

NORTHERN PLAYA GRANDE

ZONE A Northern Playa Grande

Location

Zone A is located 65 meters inland from the line of markers sanctioned by the National Geographic Institute, throughout this sector. The existence of a public road on this point is the reason behind the measurement of 65 linear meters inland, which will serve as the physical limit to determine the end of Zone A of Northern Playa Grande. Lambert coordinates E 333427, N 258224 and E 334032, N 257551.

Permitted Uses

One family-residence, recreational tourist residence.

Requirements

Minimum Surface for new segregations of lot or filial farm _____ 1200 m²

Minimum Beach Front _____ 20 m

Posterior Setback _____ 3 m

Frontal Setback _____ 3 m

Beachfront Setback _____ 20%

of the property rear, with a minimum of 10 m, for both current lots and the new segregations.

Lateral Setbacks _____ 3 m

Maximum Cover _____ 40% 1 story, 30% 2 stories

Notwithstanding the mandate of the previous clause 3 Article 3, and as a consequence

of the lots currently segregated in this sector, maximum cover shall not include

accesses, terraces, sidewalks, neither swimming pools. (Comment- Same problem as

above. JRS)

Maximum Height _____ 9 m high

Number of stories permitted _____ 2 stories

In the event that the Frontal or Posterior Setback coincide with the Beachfront Setback, the latter shall prevail.

Densities herein indicated shall only be applicable to new segregations. In the case of existing lots duly segregated and registered to date, these shall be allowed to construct a minimum of one, one-family residence, and, if the area so allows it, one family and/or multifamily residencies are permitted.

ZONE B Northern Playa Grande

Location

Zone B is located immediately behind the final line defined for zone A, up to the two

hundred meters inland, from the high tide land. (Comment- Zone B is defined as behind

Zone A, which is on the beach. However, requirements for Zone B properties discuss

beachfront. This is not at all clear and will lead to confusion in interpretation of the law, should the worst happen and it gets passed. JRS)

Permitted Uses

One-family residence, multifamily residence, tourism residence, tourism recreational developments and recreational installations, are allowed.

Requirements

Minimum Surface of lot or filial farm for new segregation _____ 1200 m_

Minimum Beach front _____ 20 m

Frontal Setback _____ 5 m

Posterior Setback _____ 3 m

Lateral Setbacks _____ 3 m

For the first story and 1 m additionally for the second story in case of a lateral window.

Maximum Cover _____ 40% 1 story and 30% 2 and 3 stories

Maximum Height _____ 12 m height

Number of stories allowed _____ 3 stories

Density one family residence _____ 9 units/ha

Density multifamily residence _____ 20 units/ha

Density Tourist Developments _____ 25 rooms/ha or 50 guests/ha

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Along the first two meters accounted for behind the markers sanctioned by the National Geographic Institute, a living hedge of native plants exhibiting persistent foliage, shall be created. The following 13 meters shall bear low tropical vegetation, and

infrastructure less than 1 meter high shall be authorized for the remaining 15 meters.

(Comment- Two meters of a hedge are not sufficient to give privacy to the nesting

beach. What is low tropical vegetation? A grass lawn is tropical vegetation.

Infrastructure less than 1 meter high could be almost anything. What provision is there to keep animals and people from going on the beach? Will beach be fenced? Right now dogs dig up many nests each morning and there are only a few dogs on the beach. When the area becomes a refuge and is fully built out we can expect at least 100 dogs in the area of the nesting beaches. They will not be controlled and many if not all hatchlings will be killed. JRS)

In the event that the Frontal or Posterior Setbacks coincide with the Beachfront Setback, the latter shall prevail.

ZONE B Central Playa Grande

Location

Zone B is located immediately after the final line defined for zone A, up to two hundred lineal meters inland, from the high tide line, except for any additional land that each individual landowner wishes to integrate into the Refuge. (Comment- Same confusion in Zone A and B designations as above. JRS)

Permitted Uses

One-family residence, multifamily residence, tourist residence, recreational, tourist developments and recreational installations.

Requirements

Minimum Surface of the lot or filial farm for new segregation _____ 1200
m_

Minimum Beach Front _____ 20 m

Frontal Setback _____ 5 m

Posterior Setback _____ 3 m

Lateral Setbacks _____ 3 m for
the first story and 1 m additionally for the second story in the event of a lateral window.
Maximum Cover _____ 40% 1 story and 30% 2 and 3 stories
Maximum Height _____ 12 m high
Number of stores permitted _____ 3 stories
Density One Family Residence _____ 9 units/ha
Density Multifamily Residence _____ 20 units/ha
Density Tourist Developments _____ 25 rooms/ha
or 50 guests/ha

SOUTHERN PLAYA GRANDE

ZONE A Southern Playa Grande

Location

Zone A is located alongside the 75 meters behind the line of markers sanctioned by the National Geographic Institute, Lambert coordinates E 334712, N 256410 and E 334886, N 255108.

Permitted Uses

One-family residence, multifamily residence, tourist residence and recreational installations.

Requirements

Minimum Surface of the lot or filial farm for new segregation _____ 1200
m_
Minimum Beach Front _____ 20 m
Posterior Setback _____ 3 m
Frontal Setback _____ 3 m

Beachfront Setback	_____	15 m
Lateral Setbacks	_____	3 m
Maximum Cover	_____	40% 1 story, 30% 2 stories
Maximum Height	_____	9 m high
Number of stories permitted	_____	2 stories
Density One-Family Residence	_____	8 units/ha
Density Multifamily Residence	_____	17 units/ha

Along the first two meters behind the line of markers sanctioned by the National Geographic Institute, a live hedge of native species will be created bearing persistent foliage. The following 13 meters shall bear low tropical vegetation.

In the event the Frontal or Posterior Setbacks coincide with the Beachfront Setback, the latter shall prevail.

ZONE B Southern Playa Grande

Location

Zone B is located immediately after the zone defined as zone A, up to 200 lineal meters inland from the high tide line, excepting any additional property the respective landowner wishes to include in the Refuge.

Permitted Uses

One-family residence, multifamily residence, tourist residence, recreational, tourist developments and recreational installations.

Requirements

Minimum Surface of the lot or filial farm for new segregation _____ 1200
m_

Minimum Beach Front _____ 20 m

Frontal Setback _____ 5 m

Posterior Setback _____ 3 m

Lateral Setbacks _____ 3 m for
the first story and 1 m additional for the second story in the event of a lateral window.

Maximum Cover _____ 40% 1 story and 30% 2 and 3 stories

Maximum Height _____ 12 m high

Number of stores permitted _____ 3 stories

Density One Family Residence _____ 9 units/ha

Density Multifamily Residence _____ 20 units/ha

Density Tourist Developments _____ 25 rooms/ha
or 50 guests/ha.

For the properties existing to this day which area is less than 600 m_, the setback from the line of markers shall be 10% of the lot's depth with a minimum of 5 m and a maximum of 10 m. Likewise, the private properties south of the coordinates E 255126 and N 334895, shall comply with this regulation.

PLAYA LANGOSTA

ZONE A Playa Langosta

Location

Zone A extends from coordinates N 252081.99, E 333710.81 up to marker 18, coordinates N 251234.94, E 333866.94, along a band of land 75 meters inland from the line of markers to the east, sanctioned by the National Geographic Institute.

Permitted Uses

One-family residence and multifamily residence, recreational tourist residence, recreational installations and tourism and ecotourism developments.

Requirements

Minimum Surface of the lot or filial farm for new segregation _____ 1200
m_

Minimum Beach Front _____ 20 m

Frontal Setback _____ 3 m

Posterior Setback _____ 3 m

Lateral Setbacks _____ 3 m

Maximum Cover _____ 40% 1 story and 30% 2 stories

Maximum Height _____ 9 m high

Number of stores permitted _____ 2 stories

Density One Family Residence _____ 8 units/ha

Density Multifamily Residence _____ 17 units/ha

In the event the Frontal and Posterior Setbacks coincide with the Beachfront Setback, the latter shall prevail.

ZONE B Playa Langosta

Location

Zone B is located immediately after the final line defined for Zone A, and includes the remaining area of this sector of the Refuge.

Permitted Uses

One-family Residence and Multifamily Residence, recreational tourism residence, recreational installations and tourism and ecotourism developments.

Requirements

Minimum Surface of the lot or filial farm for new segregation _____ 1200
m_

Minimum Beach Front _____ 20 m

Frontal Setback _____ 5 m

Posterior Setback _____ 3 m

Lateral Setbacks _____ 3 m

Maximum Cover _____ 40% 1 story and 30% 2 and 3 stories

Maximum Height _____ 12 m high

Number of stores permitted _____ 3 stories

Density One Family Residence _____ 9 units/ha

Density Multifamily Residence _____ 20 units/ha

The setbacks from the markers of the sectors Cerro Morro, Playa Carbon, Playa Ventanas, Northern Playa Grande, Central Playa Grande, Southern Playa Grande and Playa Langosta, shall be dedicated to the regeneration of native vegetation.

Alongside the zones adjacent to mangroves and estuaries, a protection zone of 10 meters must be allowed, except in those cases where public or private infrastructures is already in place, public or private roads or the like, contiguous to these. Specifically, in the case of the mangroves and the estuary of Playa Ventanas, the lots west of the public road shall not be affected by the 10 m setback herein indicated, because they are separated from the mangroves by the public road. (Comment- This provision essentially

approves, after the fact, illegal actions taken by landowners in the past. It also clearly indicates the intention of this law. There will be regulations unless they are inconvenient to the landowners. JRS)

For all the other zones previously indicated, it is understood that the heights shall be measured from the base level of the first floor.

ARTICLE 13

Within the Mixed Property National Wildlife Refuge Las Baulas, the following construction norms shall be complementarily implemented.

1. For those sections of Cerro Morro and Playa Tamarindo, as well as any other point observable from Playa Grande and Playa Langosta, a plan for the management of illumination must be developed, with the objective to mitigate its impact on the nesting sea turtles.
2. Constructions must be painted with colors not reflective or bright, to ensure the mitigation of the visual impact and the contrast with the landscape.
3. Luminosity:
 - a. Constructions must avoid the use of external lights on the side facing the beach and the mangroves. In the event of illumination on paths or illumination of corridors and resting spaces, these shall be placed at ground level and bearing barriers that shall impede being observable from the beach.
 - b. For the areas mentioned in the previous paragraph, amber or red lights will be used, or others technically appropriate.
 - c. In the case of lamps and lights used to illuminate resting or common areas, these must be placed behind vegetable or artificial barriers or far from the windows, in such a way that their reflection is not observable from the beach or the mangroves.

- d. Windows not observable from the beach shall carry no restrictions regarding their size, if and when the window panes are tinted or covered with filters, according to what is established in the Management Plan.
 - e. Automatic interrupters must be installed to control external lights, in such a way that those not being used are put out.
 - f. Commercial signs shall be developed without using light and with natural materials such as wood, stone or others which may adequately integrate with the landscape.
 - g. In the specific case of the access roads, garages, parking lots and entrances to the properties, these must be designed in such a way that the lights of the vehicles do not shine directly on the beach.
4. Within the areas declared as Refuge, noise must not exceed 65 dB from the measuring starting point, and in conformity with the current regulations.
 5. The constructions of accesses and sidewalks will be constructed with grass concrete paving blocks, concrete, regular paving blocks or other similar material.
 6. The installation of discos is not allowed.
 7. The construction of swimming pools is authorized, when and if they are fitted with an adequate system of purification.

ARTICLE 14.

The Costa Rican Institute of Aqueducts and Sewage is authorized to include a budgetary priority provision for the investment of the necessary infrastructure for the treatment of residual waters, and is authorized, when and if it is technically required, to connect with the treatment system in Tamarindo. Likewise, the **landowners are authorized to construct and operate their own treatment systems, (Comment- How does this provision agree with other provisions in Costa Rica law for the construction and operation of**

sewage treatment systems? Does it supersede those laws? Are such systems already required by Costa Rican law? If so why is this provision in this law? What kinds of systems are required and which agency will oversee their installation and use? JRS)

when and if the requirements of the Ministry of Health and SETENA are met, and 2-meter setbacks are authorized from any of the contiguous properties.

Likewise, the volumes of rainwater are permitted to be diverted into the bodies of water located in and out of the areas regulated by this law, when and if these are canalized and disposed in such a way they this procedure does not generate impacts on the zones therein. (Comment- During the rainy season large areas behind the beaches are inundated with water. That is a natural process and may nbe essential to maintain the water content of the beach that is essential for survival of turtle eggs. Allowing the construction of canals and large pipe systems to divert the water either into the estuaries or directly into the ocean will foster the transportation of pollutants such as oil and gasoline and pesticides into these bodies of water. How can water be diverted in to these bodies of water and not generate impacts on them? JRS)

ARTICLE 15.

The installation of desalinization plants is authorized inside the Refuge as well as the corresponding disposal of used water, with the objective to protect the hydrological natural resource of the coastal zone, and which authorizations exclusively correspond to MINAET that shall approve them based on the required technical criteria. (Comment- The installation of desalinization plants will remove large amounts of water from the estuaries and in doing so will remove large numbers of larval fishes and invertebrates. Since the estuaries are nursery grounds for many marine fishes and invertebrates this will decrease the number of animals in the ocean protected zone. The waste products from desalinization are very harmful and toxic to organisms. A blanket authorization

such as in this provision will permit the further destruction of the estuaries, which is against the provisions of the RAMSAR Convention. JRS)

ARTICLE 16.

Property rights, the uses of the soil and existent infrastructure to date are recognized and ratified as acquired and consolidated rights. These shall not be modified by the definition of the sectors of the Mixed Property National Wildlife Refuge Las Baulas.

The improvements, extensions or similar to the existing infrastructure, shall follow the applicable regime at the moment of construction, as long as this is developed within the same property, respecting the regulations concerning Cover established for each sector.

The applicability of the requirements established in this law is not mandatory for the constructions in process and having Environmental Viability. These may be concluded as per their respective construction permits; however, they must comply with the rules established in article 13.

ARTICLE 17.

The density factor is not applicable for the urban developments and condominiums in place to date and approved by the National Institute of Housing and Urban Development (INVU), at the time of approval of this law; however, thereof, the factor concerning Cover will be applied. In the same manner, existing constructions at the moment of approval of this law may conduct repairs and remodeling, complying with the use of the soil and the existing structures. (Comment- This provision grandfathers the urban developments that were permitted before there was knowledge of the turtles nesting on the beaches in Las Baulas Park. The density is too high in these developments. It also justifies existing constructions that are too close to the beach regardless of their density. This provision shows that this proposed law is based on false

pretenses. If it was actually aimed at a practical solution to save the turtles it would require all constructions within the refuge to comply with the provisions of the different zones, including current construction. It does not do that. It basically is a law to exempt any construction that exists or that a person wants to build, while masquerading as a law to protect turtles. JRS)

Chapter IV

Expropriations

ARTICLE 18.

Landowners who, after the publication of this Law and, during the next twelve months accounted for after the Management Plan herein referred to is published, do not voluntarily accept the regime of the Refuge, must be expropriated by the State. The State shall include a budgetary provision as required and conclude the process expeditiously. (Comment- What happens if no landowners accept this refuge, or if most do not? The State has to expropriate them at higher prices and the situation is at least as bad as it is now. There is no budgetary provision in the Law for such expropriations. There was a requirement in the 1995 law for expropriations but the money was never appropriated. This provision is meaningless. JRS)

ARTICLE 19.

The State will inactivate the ongoing expropriation records processes in whichever phase they may stand, be it administrative or juridical, against the landowners who accept to be included in the regime of the Mixed Private National Wildlife Refuge Las Baulas, during a six month period after the promulgation of this law. Consequently, all the undergoing processes of expropriation under the administrative and juridical seat at

the moment of enforcing this law will be considered terminated and definitively inactivated. The non-compliance of this mandate will bring upon the responsible officers the sanctions established in the corresponding legislation. (Comment- The Leatherback Trust has provided money for these expropriations. What will happen to that money if this law passes and the expropriations are stopped? Some expropriations are completed. What happens to that land? How can this law overturn a judicial process that is already in the courts based on the law on expropriations that should have precedence over this law? What sanctions are in what corresponding legislation? JRS)

CHAPTER V

Other Dispositions

ARTICLE 20.

In the Mixed Property National Wildlife Refuge Las Baulas, the Municipality may provide public services and for these charge the corresponding fees and prices.

ARTICLE 21.

MINAET is hereby authorized to subscribe new cooperation agreements to contract personnel by means of non governmental organizations to fulfill the work required for the management, protection, research, vigilance and conservation of the natural resources bearing the authorization derived from the applicability of current laws exhibiting affinity and concordance.

ARTICLE 22.

The contracting of the new personnel established by the law and their accreditation before the National System of Conservation Areas shall be conducted by means of a request from the director of the Conservation Area, complying with the established manuals. Their appointments may be revoked following the request of the director of

the Conservation Area, through the contracting organization, when supporting reasons are in place and following the due process.

ARTICLE 23.

The contracted personnel shall be designated as officials as related to the performance of their functions and shall have the same obligations and attributes of the regular officials of MINAET, which are authorized to utilize the various assets and goods and should comply with the applicable special regulations for the use of these. (Comment. Can this law override the requirements of other laws and Supreme Court rulings that prohibit non officials from acting as officials? JRS)

ARTICLE 24.

Following the necessity to effectively implement the conservation procedures necessary to ensure the protection of the population of leatherback sea turtles nesting in the Tempisque Conservation Area, as well as to conduct the adequate management of the coastal marine ecosystems protected and managed in this area, it is necessary to be provided with the necessary personnel to conduct the actions for the marine and terrestrial protection, research, management of tourism, restoration of the vegetable barrier and regulation of the human activities within these protected areas. Therefore, the State, by means of the national Budget of the Republic and during a period of one year, will create 35 employments and the necessary resources to provide the materials and equipment for these officials, so that they can perform the corresponding duties.

Final Dispositions

ARTICLE 25.

This law pertains to the public order and derogates law No. 7149 of July 27, 1990, and law No. 7524 of August 16, 1995 and also those in opposition, as well as all the norms in opposition bearing inferior status, and, therefore, to achieve it the Executive Power must issue all the corresponding actions.

In force after publication.

Issued at the Presidency of the Republic, on the 05 days of the month of May of two thousand and nine.

OSCAR ARIAS SANCHEZ

PRESIDENCY SEAL

MINAET SEAL

JORGE RODRIGUEZ QUIROS

MINISTER OF THE ENVIRONMENT, ENERGY AND TELECOMMUNICATIONS