

**ORDINANCE NO. 2022-101**  
**Amending Chapter 54, Article XXII of the Sarasota County Code of Ordinances**  
**[Coastal Setback Code]**

**AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, RELATING TO THE GULF BEACH SETBACK LINE AND BARRIER ISLAND PASS TWENTY-YEAR HAZARD LINE IN THE UNINCORPORATED AREA OF SARASOTA COUNTY AS CODIFIED IN ARTICLE XXII, SECTIONS 54-721 THROUGH 54-729 OF THE SARASOTA COUNTY CODE; AMENDING SECTION 54-722 DEFINITIONS; AMENDING SECTION 54-723 GULF BEACH SETBACK LINE (GBSL) AND BARRIER ISLAND PASS TWENTY-YEAR HAZARD LINE (PHL) REQUIREMENTS; AMENDING SECTION 54-724 VARIANCES; AMENDING SECTION 54-725 RESPONSIBLE PARTIES; AMENDING SECTION 54-726 VIOLATIONS AND COMPLIANCE; AND PROVIDING AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

**SECTION 1.** This Ordinance amends Sarasota County Ordinance No. 79-03, as amended, and as codified in Chapter 54, Article XXII, Sections 54-721 through 54-729 of the Sarasota County Code. In this ordinance, deleted text is shown in ~~striketrough~~ and new text is underlined.

**SECTION 2.** Section 54-722 of the Sarasota County Code of Ordinances is hereby amended to read as follows:

**Sec. 54-722. Definitions.**

*Accessory Structure* means a structure of a nature customarily incidental and subordinate to the principal use or structure and unless otherwise provided, on the same premises. “On the same premises” with respect to accessory uses and structures shall be construed as meaning on the same lot or on a contiguous lot in the same ownership. Examples include, but are not limited to, swimming pools, spas, sheds, gazebos, etc. Where a building is structurally attached to the principal building, it shall be considered a part thereof and not an accessory building.

*Alteration* means any human-related activity that degrades the integrity, and adversely affects the function and value, of a native habitat either permanently or temporarily. These activities include but are not limited to filling; excavating; constructing; removing, trimming, mowing and herbiciding of vegetation; and any manmade material change above, on, or below the ground. This definition excludes historic alteration that occurred pre-European settlement of Florida.

*Applicant* means any individual, corporation, governmental agency, business trust, estate trust, partnership, association, two or more persons having a joint or common interest or any other legal entity seeking any determination or approval under this article.

*Article* means Chapter 54, Article XXII, of the Sarasota County Code of Ordinances, as amended by this Ordinance.

*Barrier Island Pass Twenty-Year Hazard Line (PHL)* means the lines described in Exhibit "A" attached to Ordinance No. 2007-023 and incorporated herein.

*Beach* means that area of unconsolidated material that extends landward from the mean low-water line to the place where there is a marked change in material or physiographic form, or to the line of nonpioneering vegetation, as described and protected within the Environment Chapter of the Sarasota County Comprehensive Plan.

*Beach Cleaning and Grooming* means the clearing of seaweed, debris, dead fish, and other trash, and the burying of dead fish, and to groom the Beach by raking and leveling, provided that such activity shall not disturb existing Beach or Dune vegetation, nor shall such activity change the final ground elevations greater than one foot.

*Beach Nourishment* means placing sand on an eroding beach to provide a protective buffer against storm and wave damage or for the purpose of beach enhancement to increase recreational value.

*Board* means the Board of County Commissioners of Sarasota County, Florida.

*Coastal Construction Control Line* means the Coastal Construction Control Line (formerly known as the Coastal Construction Setback Line) for Sarasota County as approved by the Head of the State of Florida Department of Environmental Protection (Governor and Cabinet) under the provisions of Chapter 161.053, Florida Statutes 1977, and amended in 1986.

*Coastal Hammock* means a native habitat as described and protected within the Environment Chapter of the Sarasota County Comprehensive Plan and this article.

*Coastal System* means the upland dune system, Beach and vegetation Seaward of the Gulf Beach Setback Line or Waterward of the Barrier Island Pass Twenty-Year Hazard Line, including the swash zone; surf zone; breaker zone; offshore and longshore shoals; hardbottom communities, seagrass beds, wetlands, and bars; tidal, wind and wave driven currents; longshore and onshore/offshore drift of sediment materials; inlets or their ebb and flood tide shoals and zones of primary tidal influence and all other associated natural and manmade topographic features and structures.

*Code Administrator* means the Sarasota County Administrator, or an administrative official of Sarasota County Government designated by the County Administrator to administer and enforce the provisions of this article.

*Construction* means the placing, building, erection, extension, or material alteration of any structure the use of which requires a permanent or temporary location on the ground or attachment to a structure having a permanent or temporary location on the ground. "Construction" shall include, but is not limited to, the installation of parking lots, driveways, tennis courts, swimming pools, patios, or any similar hard surfaced structures.

*Dune* means a mound, bluff, or ridge of loose sediment, usually sand-sized sediment, lying upland of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with Native Plants and is subject to fluctuations in configuration and location. Often the dunes of Sarasota County are low-lying with little noticeable variation in elevation. The native vegetation of a dune can often be displaced by nonnative invasive/nuisance plant species. Undeveloped areas of a Dune dominated by nonnative species remain a Dune.

*Dune System* means a combined area of undeveloped Dunes that comprises a native habitat, described and protected within the Environment Chapter of the Sarasota County Comprehensive Plan and this article. The system, or area, may incorporate depressional hydric lands and may be dominated by native dune vegetation other than sea oats or nonnative invasive/nuisance plant species. Undeveloped areas of Dune Systems dominated by nonnative plant species remain a Dune System.

*Excavation* means the removal, addition, or alteration of soil, sand or vegetation by digging, dredging, filling, drilling, cutting, scooping, or hollowing out.

*Gulf Beach Setback Line (GBSL)* means a line congruent to the Coastal Construction Control Line established in 1978 for Sarasota County.

*Habitable Area* means a roofed portion of a residence or structure that is designed primarily for human occupancy and is a potential location for shelter from storms. Habitable areas are calculated by measuring exterior wall to exterior wall. Habitable areas are not a garage, pool, patio, deck, carport, gazebo, pool house, storage area, building access, shed, or a green house. For purposes of calculating habitable area pursuant to Section 54-723(g)(1) and 54-723(h)(8), garage space that may be legally enclosed and converted to habitable space under Chapter 54, Article XVI (Floodprone Areas Code) and Chapter 22 (Building Code) of the Sarasota County Code of Ordinances will be considered habitable area under this definition.

*Hardship On The Land* means under application of the Coastal Setback Code, the property cannot be used for the purpose for which it is zoned under Chapter 124, Unified Development Code, taking into consideration such factors as the shape of the parcel, size of the parcel, location of the setback line on the parcel, location of any protected habitats on the parcel, and location of any zoning setback lines.

*Listed Species* means any animal afforded protection pursuant to the Florida Administrative Code, including but not limited to species categorized as endangered,

threatened, and species of special concern; or any plant or animal categorized as endangered or threatened pursuant to the U.S. Endangered Species Act.

*Native Plant* means a plant species that occurred naturally within the surrounding region of Sarasota County at the time of European contact (1539 A.D.) and that was not introduced from elsewhere.

*Nonhabitable Area* means that portion of the residence or structure that is not designed primarily for human occupancy or shelter from storms. These include, but are not limited to: garages; pools; roofed porches that are open to the elements on one or more sides; patios; decks; carports; gazebos; pool houses; storage; building access, or green houses.

*Regularly Manicured or Landscaped* means that conversion and continued maintenance activities have occurred at such a frequency as to prevent the reversion of the land area back to native Coastal Hammock or Dune System habitat.

*Sarasota County Comprehensive Plan* means the framework adopted by the Sarasota Board of County Commissioners under Ordinance No. 89-18, as amended, to comply with the Local Government Comprehensive Planning and Land Development Regulations Act of 1985.

*Seaward* means in a direction toward the Gulf of Mexico.

*Shore-Parallel Shadow of the Residence* means a landward, one-dimensional, shore-perpendicular projection of the footprint of the existing primary habitable residential structure (see attached Exhibit B for a technical application of this definition to a site plan). [Note: Exhibit B is not set out herein but is attached to Ordinance No. 2007-023 and available for inspection in the county offices.]

*Shore Protection Structure* means man-made structures designed to either prevent erosion of the upland property or to protect structures from the effects of coastal waves and current action, or to add sand to the beach and dune system, or alter the natural coastal currents, or stabilize the mouth of inlets. Examples of Shore Protection Structures include but are not limited to seawalls, bulkheads, retaining walls, geotextile sand tubes, rock revetments, jetties, groins, and breakwaters.

*Substantial Improvement* means any individual or cumulative expansion of the Habitable Area of a structure that exceeds 75 percent of the structure's existing Habitable Area on the adoption date of Sarasota County Ordinance No. 2004-010. Structures that have 25 percent or less of their Habitable Areas Seaward of the GBSL or Waterward of the PHL on the adoption date of Sarasota County Ordinance No. 2004-010 are excluded from this definition.

*Temporary Shore Protection Measures* means activities repairing, reinforcing, or replacing an existing structure, or constructing a temporary structure, or engaging in similar protective activities of a short-term nature in order to:

- (a) Prevent an immediately anticipated collapse of a building, public road, bridge, safety or utility structure, or structure of significant historical value; or
- (b) Reduce the rate of erosion of property during a storm in order to safeguard an existing structure; or
- (c) Relieve immediate or immediately anticipated severe flooding conditions to an existing habitable structure.

*Thirty-Year Erosion Projection Line* means the projected line of long-term shoreline recession occurring over a period of 30 years based on shoreline change rate information obtained from historical measurements and as established by the Florida Department of Environmental Protection, Bureau of Beaches and Coastal Systems, or Sarasota County.

*Waterward* means in a direction toward the waters of Big Sarasota Pass or Midnight Pass.

*Wet Sandy Beach* means the area between the mean high tide line and the mean low tide line.

**SECTION 3.** Section 54-723 of the Sarasota County Code of Ordinances is hereby amended to read as follows:

Sec. 54-723. Gulf Beach Setback Line (GBSL) and Barrier Island Pass Twenty-Year Hazard Line (PHL) requirements.

- (a) *Prohibition.* The following activities are prohibited Seaward of the GBSL and Waterward of the PHL, except as otherwise provided herein:
  - (1) Construction or Excavation;
  - (2) The installation of nonnative plants and landscape boulders in or on a Beach, Dune System or Coastal Hammock habitat, except as provided for within Section 54-723(g)(8);
  - (3) Alteration or removal of Native Plants located within a Dune System or Coastal Hammock habitat.
- (b) *Administration.* Administration of this article shall be the responsibility of the County Administrator or his/her designee, who may seek the advice of any appropriate County staff or State agency.
- (c) *Applicability and Interpretation.* The provisions of this article shall be effective throughout the unincorporated area of Sarasota County, Florida. It shall be effective within the incorporated municipalities to the extent that those municipalities adopt the same provisions and provide by interlocal agreement for enforcement by the County. The Board may provide for enforcement within any municipality through an interlocal agreement.

- (1) In the application and interpretation of this article, all provisions shall be considered minimal requirements and construed liberally to effectuate the purposes of this article.
  - (2) This Article is not intended to repeal, abrogate, or impair any existing statutes, laws, ordinances, easements, covenants, or deed restrictions which impose more stringent restrictions on coastal Construction or Excavation.
  - (3) Where this article conflicts with or overlaps another ordinance or statute, whichever imposes the more stringent restrictions on Construction and Excavation shall prevail.
  - (4) Projects granted a variance under this article are exempt from Sarasota County Ordinance No. 72-84, as amended [Article XX of the Sarasota County Code], and shall not need a permit under Sarasota County Ordinance No. 72-84, as amended. Subsequent maintenance of such projects, however, is not exempt from the provisions of Sarasota County Ordinance No. 72-84, as amended.
  - (5) All applications filed with the Code Administrator as of 12:01 a.m. on October 28, 2008, shall be reviewed under the standards in effect at the time of the applications were filed.
- (d) *Joint Authorization.* In the event that proposed activities are subject to overlapping administration between Articles of Chapter 54 of the Sarasota County Code, the Applicant has the option of obtaining joint authorization from the County to satisfy the requirements of all applicable code provisions. The proposed activity shall meet the requirements of all applicable code provisions in Chapter 54 of the Sarasota County Code. Any joint authorizations for the project shall be heard concurrently before the Board.
- (e) *Simultaneous Reviews.* In the event that an Applicant seeks authorization to conduct activities which are subject to overlapping code provisions from different Articles of Chapter 54 of the Sarasota County Code, County staff shall perform simultaneous natural resource reviews to the greatest extent practicable.
- (f) *Listed Species.* In cases where impacts to Listed Species may occur, Applicants shall be required to consult with the appropriate Federal and State wildlife agencies, to use recognized sampling techniques as defined by accepted methodology of the agency to identify Listed Species, and to provide documentation of such coordination and compliance prior to County approval to conduct any activities that could disturb Listed Species or the habitat.
- (g) *Exceptions to the prohibition on Construction and Excavation located Seaward of the GBSL or Waterward of the PHL.*

- (1) This Article shall not apply to any modification, maintenance or repair of any existing structure that is not a Substantial Improvement, or proposed modification of a structure for which a variance has been granted and has been determined by County staff to be consistent with Board authorized coastal setback variance plans. However, such modification, maintenance or repair must be undertaken within the limits of the existing foundation, or proposed foundation for which a variance has been granted. This must not require, involve or include any additions to, or modification of, the existing foundation of that structure. Certain activities covered by this exception may require a written conditioned exception as provided in Section 54-723(h)(1). Shade or walkover structures that existed before the adoption of this Article, or were authorized pursuant to a prior coastal setback authorization, and their associated posts or pilings may be repaired or replaced in the same footprint under this exception.
- (2) Catwalks, stairs, and decks no greater than 144 square feet, may be constructed Seaward of the Gulf Beach Setback Line or Waterward of the Barrier Island Pass Twenty-Year Hazard Line subject to all other applicable regulations. For purposes of this exception, total decking shall not exceed 144 square feet per lot and decking shall not adversely impact protected native habitats including but not limited to Dune and Coastal Hammock and shall not adversely impact lateral public pedestrian access.
- (3) This Article shall not apply to the use of crushed, washed shell, or similar material free of construction debris, in the construction or maintenance of driveways, travelways, parking areas, or sidewalks, so long as there are no impacts to protected native habitats, including, but not limited to, Dune System and Coastal Hammock and all other applicable regulations are met. This exception shall not apply to the establishment or maintenance of footpaths created pursuant to Section 54-723(g)(5).
- (4) This Article shall not apply to any reconfiguration or relocation of an existing driveway, parking area, sidewalk, or patio, provided that such reconfiguration or relocation is undertaken at the existing grade does not adversely impact protected native habitats, results in a net decrease in the total impervious coverage Seaward of the Gulf Beach Setback Line or Waterward of the Barrier Island Pass Twenty-Year Hazard Line, and extends no further seaward than the existing driveway, parking area, sidewalk, or patio, subject to all other applicable regulations.
- (5) This Article shall not apply to Beach Cleaning and Grooming, nor the maintenance of existing drainageways, nor the establishment or maintenance of sand footpaths through beach and dune vegetation to the open beach provided that the sand footpaths are no wider than four feet, or do not exceed a previously County-authorized width, subject to all other applicable regulations.

- (6) This Article shall not apply to the demolition, removal, or relocation of any existing structures from that area Seaward of the Gulf Beach Setback Line or Waterward of the Barrier Island Pass Twenty-Year Hazard Line to that area landward of said lines, subject to all other applicable regulations.
- (7) This Article shall not apply to the use of Native Plants and/or beach compatible sand fill to restore native habitat, subject to all other applicable regulations. Such restoration shall be conducted in a manner that minimizes impacts to native vegetation, does not adversely affect water quality and contains and stabilizes disturbed soils. All plants selected for such restoration shall be appropriate to the zone of native habitat being restored (e.g., foredune, backdune, transitional dune, ~~e~~Coastal ~~h~~Hammock). The use of man-made structure (e.g., nearshore artificial reefs, breakwaters, groins) for such restoration shall not be considered an exception pursuant to this section. For the purposes of this exception, coconut palms (*Cocos nucifera*) may be installed landward of the Dune System and located outside of other protected native habitats.
- (8) This Article shall not apply to the maintenance of regularly manicured or landscaped areas that were authorized under the provisions of this Code or existed prior to the adoption of this article. Such maintenance may include alteration, mowing, trimming, pruning, installation and removal of vegetation, including the use of herbicide. Alteration or removal of native Coastal Hammock and/or Dune System habitat vegetation, including ~~e~~Coastal ~~h~~Hammock overstory trees, is not authorized by this exception.
- (9) This Article shall not apply to the installation and maintenance of Native Plants outside of preserved habitats and mitigation area. Said vegetation may be removed at a later time without County authorization. The burden of proof remains with the property owner to document installation, if needed.
- (10) This Article shall not apply on developed lots located landward of an improved county-maintained right-of-way where no protected native habitats are present.
- (h) *Written conditioned exceptions to the prohibition on Construction and Excavation located Seaward of the GBSL or Waterward of the PHL.* For all written conditioned exceptions the principles of avoidance first and then minimization shall be used in the design of all proposed projects within protected native habitats.

The Code Administrator may also require enhancement of the property to compensate for adverse impacts to protected native habitats. Enhancement activities may include the removal of nuisance and invasive species to the maximum extent practical and the planting, monitoring, and maintenance of native vegetation. To the maximum extent practical, invasive and nuisance vegetation shall be removed from protected native habitats in association with the written conditioned exception review. Removal of designated invasive and nuisance vegetation shall be maintained



in perpetuity. The following activities are exempt from the variance requirement, provided that the Construction and Excavation will not adversely impact lateral pedestrian access or Listed Species, the project is not located within a protected native habitat [except for Sections 54-723(h)(3), (5), (6), (78), (10) and (11), (12), (13) and (15)], and is consistent with the Sarasota County Comprehensive Plan and a written conditioned exception is obtained from the Code Administrator.

- (1) Any additional stories constructed on the top of an existing structure, provided that the existing foundation is not added to or modified and that the existing structure is pile-supported and has its lowest horizontal structural member at, or above, the current one-hundred-year storm elevation requirements established by the Florida Department of Environmental Protection (FDEP) for new habitable construction seaward of the Coastal Construction Control Line (CCCL).
- (2) Residential additions of less than 300 square feet located within an area landward of the Thirty-Year Erosion Projection Line. Such additions shall only be for the purpose of housing a stairway, entryway, and/or elevator and shall be located within the Shore-parallel Shadow of the Residence. This exception shall be authorized only once for a residential structure.
- (3) The placement of less than 200 cubic yards of beach compatible sand on a lot provided that no filling occurs within public easements or rights of way and other lawful drainage systems and utility facilities. For purposes of this exception, the Code Administrator may request information from the Applicant, including evidence of prior approval by the appropriate agency(ies), to confirm that no impacts will occur to off-site drainage, historic resources, or Listed Species. Further, for purposes of this requirement, beach compatible sand shall be fill that is of similar color and gradation to the surrounding natural Beach sands.
- (4) Repair, or expansion of an existing septic system located in a manner that minimizes intrusion Seaward of the Gulf Beach Setback Line or Waterward of the Barrier Island Pass Hazard Line, provided that any expansion is not located seaward of the Thirty-Year Erosion Projection Line.
- (5) The installation of a permanent monopole sign at or landward of the Beach-Dune interface, when such sign does not include a concrete footer and is consistent with all other regulations pertaining to signs contained in the Unified Development Code, Article 11, Section 124-212(a)(5).
- (65) Wooden and metal fences, post-and-rope style barriers, entry gates, and professionally engineered breakaway privacy walls that are not installed on or within protected native habitat, and do not adversely impact Dune, Beach, or Coastal Hammock. Construction of post-and-rope barriers within Dune or

Coastal Hammock is allowed when necessary to delineate sand footpaths for the protection of the habitat.

- (76) Hard-surfaced driveways, sidewalks, and parking areas totaling less than 500 square feet per lot and located landward of the seaward most point of an existing habitable residence, or landward of an existing paved or hard-surfaced travelway.
- (87) Dune walkover structures and decks which are designed in a manner to minimize adverse impacts to lateral pedestrian access and Dune vegetation. The width of dune walkovers constructed for single-family residential developments shall not exceed four feet. The width of dune walkovers constructed for multi-family residential developments shall not exceed six (6) feet, subject to all other applicable regulations.
- (98) Demolition of ~~an existing development single-family or multifamily residential structure and associated accessory structures~~ and Construction of new development a new pile-supported single-family residence and associated accessory structures provided that:
- a. The footprint area of ~~the Habitable and Nonhabitable area of the residence and the footprint area of the accessory structure(s)~~ Seaward of the GBSL or Waterward of the PHL shall not increase;
  - b. The new development structure and any associated new septic system shall be located as far landward on the property as possible when taking into consideration site specific conditions. The proposed Construction shall not be located seaward of the Thirty-Year Erosion Projection Line, or within 60 feet of destabilized bluff line;
  - c. The new development residential structure shall be no further ~~s~~Seaward than the existing development structure;
  - d. ~~The new accessory structures shall be located no further seaward than the existing residential structure, or accessory structures, and shall be located as far landward as possible.~~
  - e. No more than one single-family dwelling shall be allowed per platted lot;
  - f. Notwithstanding subsection e., an existing single-family or multifamily residence on more than one platted lot shall only be replaced by one single-family dwelling.

(10) Construction of a new Accessory Structure where the structure:

- a. Is located no further seaward or waterward than the existing development on the lot;
- b. Does not exceed 1,200 square feet;
- c. Is not located within and does not impact protected native habitat;
- d. Is located at least 60 feet landward of an existing unstabilized bluffline and landward of the Thirty-Year Erosion Projection Line;

This WCE does not apply to hard-surfaced driveways, sidewalks, and parking areas and shall only be used once per property. Proposed Accessory Structures that do not meet these criteria shall require a Coastal Setback Variance as provided in Section 54-724.

- (119) Drilling of a well, for the purpose of irrigation or potable water, subject to all other applicable regulations, provided that the well is sited in a manner which minimizes impacts to Beach and/or Dune System habitat and intrusion Seaward of the Gulf Beach Setback Line or Waterward of the Barrier Island Pass Twenty-Year Hazard Line. For the purposes of this exception, restoring the area around the well-drilling site with appropriate native vegetation shall mitigate impacts that are unavoidable. All drilling slurry shall be contained during Construction and removed from the site.
- (1240) Public lifeguard towers that minimize adverse impacts to lateral pedestrian access and native Dune System and Coastal Hammock vegetation.
- (1344) Removal of dead native trees that pose a risk to public health, safety, and general welfare, as determined by County staff.
- (1442) Installation of a buried propane tank located in a manner that minimizes intrusion Seaward of the Gulf Beach Setback Line or Waterward of the Barrier Island Pass Hazard Line, provided that no Construction or Excavation is located seaward of the Thirty-Year Erosion Projection Line or within 60 feet of an unstabilized bluff line and is located landward of the seaward most point of an existing habitable residence.
- (1543) Beach Nourishment projects and associated maintenance activities that are found to be in the public interest as determined by the County.
- (i) *Written Conditioned Exception Reviews.* In order to complete a review of a request for a written conditioned exception, the Code Administrator may request that the Applicant provide engineered construction and site plans, written information from other State and local agencies, or other pertinent information. A written determination by the Code Administrator that a request for a written conditioned exception is approved, denied, or that additional information is required will be

provided to the Applicant within approximately ten (10) working days following receipt of the request. Written conditioned exceptions authorized pursuant to Section 54-723(h)(1), (2), ~~(8)(9)~~, and (10) shall expire three years from the date of issuance. All others shall expire one (1) year from the date they are issued.

**SECTION 4.** Section 54-724 of the Sarasota County Code of Ordinances is hereby amended to read as follows:

Sec. 54-724. Variances.

(a) *Variances.* The Board may grant a variance as ~~described above~~ if the Board determines the following:

- (1) Strict enforcement of the provisions of the Article would impose an unreasonable or unjust Hardship On The Land;
- (2) The requested variance does not adversely affect Coastal Systems;
- (3) The requested variance is the minimum variance necessary to permit reasonable use of the property;
- (4) The requested variance is not in substantial conflict with the attainment of the purposes in Sections 54-721(b)(1) through 54-721(b)(8), and is consistent with the attainment of the purpose in Section 54-721(b)(9);
- (5) The requested variance is consistent with the Sarasota County Comprehensive Plan.

If determined to be required in conjunction with the provisions of this article, the Board of County Commissioners may also grant a street-yard or side-yard setback variance in lieu of the Board of Zoning Appeals. The criteria for the granting of a street-yard or side-yard setback variance are subject to the same above-listed requirements established for the granting of a variance under this article. The Applicant must attempt to obtain an affidavit of no objection from the affected adjacent property owner. Section 54-724(b). Variances for Shore Protection Structures.

(b) *Variances for Shore Protection Structures.* The Board may grant a variance for a Shore Protection Structure, if the Board determines, in addition to the criteria set forth in Section 54-724(a)(1)—(5) above, that the requested variance is consistent with the additional following criteria:

- (1) The proposed Shore Protection Structure and associated Construction shall be found to be necessary to protect property rights and found to be in the public interest pursuant to the Comprehensive Plan. In order for the proposed Shore

Protection Structure to be found to be necessary and in the public interest, the request:

- a. Does not adversely impede lateral public pedestrian access;
  - b. Protects upland structures from damage or destruction caused by coastal erosion. In determining whether a shore protection structure is necessary, the following factors are evaluated:
    1. Whether buildings, roads, or public facilities have been damaged or destroyed;
    2. Whether buildings, roads, or public facilities or infrastructure are directly and immediately threatened;
    3. Historic erosion trends;
    4. The rate of change in erosion; and
    5. Other site-specific conditions, including but not limited to the presence of beach stabilizing vegetation, the height and configuration of the eroded bluff, the distance of structures from the eroding bluff, the potential for adverse impacts to neighboring properties, the elevation and slope of the beach;
  - c. Follows the principles of avoidance first and then minimization of adverse impacts to Coastal Systems and processes, neighboring properties, and the values and functions of Beaches and Dune Systems; and
  - d. Provides mitigation where determined to be appropriate; and
- (2) The proposed Shore Protection Structure Construction shall be approved only when less structural alternatives, such as and including but not limited to landward relocation or elevation of the upland structure, Beach Nourishment, Dune/native habitat restoration and temporary sandbags have been demonstrated by the Applicant and to the satisfaction of the County determined not to be feasible and practical. Where feasible, alternatives to Shoreline Protection Structures shall be employed.
- (3) The proposed Shoreline Protection Structure may be approved only for: (1) the protection of public infrastructure; or (2) when the Board determines that the Shore Protection Structure is necessary to protect property rights.
- (c) *Review Period.* In addition to a professionally prepared application, Applicants for coastal setback variances may be required to provide additional support information. This may include, but is not limited to:

- (1) A professionally prepared native habitat delineation.
- (2) A vulnerability and eligibility analysis that has been approved by the Florida Department of Environmental Protection.
- (3) A frangibility analysis for a Shore Protection Structure; and/or an engineering analysis of the structural stability or load capacity of a structure or foundation that has been prepared, signed, and sealed by a qualified professional structural engineer that is registered in the State of Florida.
- (4) An appropriate survey of the current location of the mean high water line conducted in a manner consistent with the most current Florida Department of Environmental Protection standards.
- (5) A site assessment survey in accordance with Chapter 66, Article III, of the Sarasota County Code for projects that occur in areas with known historic resources or in areas with a moderate to high probability for the presence of historic resources based upon review of the County's historical resources database or other information available.

A written determination by the Code Administrator that a variance petition application is complete or incomplete will be provided to the Applicant within approximately 15 working days following receipt of the application. If additional information is required by the Code Administrator, the Applicant shall provide it within 90 days, unless a waiver has been granted by the Code Administrator. If this information response deadline has not been met, the application shall be deactivated and a new application shall be necessary. Any requested additional information must include a cover letter describing changes made to the original plan. Upon receipt of additional information, the Code Administrator shall submit revised comments regarding completeness within approximately ten (10) working days. Once the application is deemed complete, an inspection of the subject site will be completed within approximately ten working days, and a formal review period will begin. A written staff report and recommendation to the Board of County Commissioners will be completed by the Code Administrator within approximately 45 working days after commencement of the formal review. The public hearing before the Board will be scheduled as soon as possible thereafter, in accordance with the notification requirements listed in Section 54-724(e).

- (d) *Variance Conditions.* The Board may impose reasonable stipulations upon the granting of a variance, including but not limited to any of the following:
  - (1) Development shall take place in accordance with a County approved site plan;

- (2) Development shall be designed to minimize damage to Beach stabilizing features and to minimize the need for subsequent variances for the Construction of seawalls or similar Shore Protection Structures;
- (3) Removal of Shore Protection Structures that have not been maintained and no longer function to their original design standards;
- (4) Removal of nuisance and invasive vegetation and a requirement to maintain areas free of nuisance and invasive vegetation in perpetuity;
- (5) Development shall be designed to minimize adverse impacts to lateral public pedestrian access by requiring easements to protect existing public rights of access;
- (6) Development shall be designed to minimize adverse impacts to the public health, safety, and general welfare by requiring restrictive covenants and conservation/preservation easements;
- (7) Require a performance bond, cash bond, or letter of credit from the Applicant or Owner of Property for which the variance is sought;
- (8) Require the commencement of Construction and Excavation within one year of the date the variance is granted;
- (9) Require the completion of Construction and Excavation within three years of the date the variance is granted;
- (10) Require that development be reviewed by the Florida Department of Environmental Protection, ~~Bureau~~Office of ~~Beaches~~Resilience and Coastal ~~Systems~~Protection, so that ~~e~~Construction requirements established by the Florida Department of Environmental Protection are implemented.

The Board may, without holding a public hearing, extend any time restrictions contained in an existing variance where the proposed extension would not be inconsistent with the provisions of this article. In addition, upon written request of the Applicant, the Code Administrator may grant a one-year administrative time extension where site conditions have not materially changed or the proposed extension would not be inconsistent with the provisions of the Article.

- (e) *Public Hearings.* No variance shall be considered by the Board until such time as the following public hearing notices have been provided:
  - (1) *Published Notice:* A minimum of ten (10) days prior to the public hearing date, a notice shall be published in a newspaper of general circulation that has been selected by the County. The content and form of the published notice shall be

consistent with the requirements of Florida Statutes, Section 125.66, as amended.

- (2) *Mailed Notice:* Once the Code Administrator has deemed the application complete, the Applicant shall be responsible for mailing a notice provided by Sarasota County to the appropriate neighborhood association and all property owners within 500 feet of the property boundaries and shall also be responsible for mailing a second notice a minimum of fifteen days prior to the public hearing date. The Applicant shall be responsible for copying and mailing the notices to all property owners based on the Property Appraiser's records within 500 feet of the property boundaries of the land for which the variance is sought. Where such land is adjacent to the property in the Petitioner's ownership, the distance shall be measured from the boundaries of the entire ownership. Where the notification boundaries include a multifamily dwelling (e.g., condominium), each individual unit owner shall be notified. Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, and postage paid. An affidavit attesting to such mailings shall be submitted to the Code Administrator a minimum of five (5) days prior to the public hearing date. The notice shall state the proposed activity for which a variance is sought, a general description of the area involved, and shall include a drawing depicting the proposed activity and the location of same as it relates to the surrounding area.
- (3) *Posted Notice:* A minimum of 15 calendar days prior to the public hearing date, the Applicant shall be responsible for posting each individual property where a variance is sought with waterproof notices provided by Sarasota County. These notices shall be placed along all streets that the property(ies) front(s). Where the street is privately-owned, the Applicant may also be responsible for posting a notice at a nearby public location, as determined by Sarasota County. Where the land does not front a street, signs shall be erected on the nearest street with an attached notation indicating the general direction and distance to the land for which a variance is sought. Notices posted along a street shall be set back no further than 25 feet from the street and shall be visible for all to see from the road. In addition to a street notice(s) and where a Beach exists (as determined by County staff), a notice shall be posted on the gulf side or pass side of each property where a variance is sought. This notice shall be posted in a location that is easy for beachgoers to read, shall not impact protected sea turtle nesting activities or nests, and in a location that does not make it subject to washout by tides or minor storm waves. All posted notices shall be removed no later than ten days following the public hearing. The Applicant shall be responsible for ensuring that the appropriate posted notice is maintained on the lands for which a variance is sought until the completion of the public hearing. An affidavit attesting to the required posting and locations shall be submitted to the Code Administrator by the owner of the property for which the variance is sought or his or her agent.



The Applicant shall be responsible for the cost of all notice requirements. Notwithstanding any other provision herein contained, failure to provide written or posted notice to adjacent property owners shall not constitute a jurisdictional defect provided that proper legal notice has been published. The County shall supply the Applicant with a list of all municipalities or other public agencies that may be affected by the proposed development. The Applicant shall notify these municipalities and other public agencies by mail and inform them that they have the right to be heard. The Applicant shall be responsible for the cost of all notice requirements.

(f) *Class I Emergency Variances.* ~~In addition to the regular variance procedures and requirements outlined in Section 54-724 (a) through (e) and in addition to the Class II Emergency Variance procedures and requirements outlined in Section 54-724(g) of this Code, †~~The Code Administrator may grant Class I Emergency Variances under the circumstances and procedures identified in this subsection, that would permit Construction and/or Excavation Seaward of the Gulf Beach Setback Line or Waterward of the Barrier Island Pass Twenty-Year Hazard Line.

(1) Class I Emergency Variances: The Code Administrator may administratively grant a Class I Emergency Variance for any property or properties, or a general Class I Emergency Variance for any area, in emergencies. In determining whether an emergency exists, the Code Administrator shall utilize best professional judgement taking the following factors into consideration:

- a. Whether primary structures, swimming pools, septic systems, roads or public facilities have been damaged or destroyed;
- b. Whether primary structures, swimming pools, septic systems, roads or other public facilities are directly and immediately threatened due to proximity to the mean high water line;
- c. The historic erosion trends;
- d. The rate of change in erosion;
- e. Other site-specific conditions, including but not limited to the presence of beach stabilizing vegetation, the height and configuration of the eroded bluff, the distance of structures from the eroding bluff, the potential for adverse impacts to neighboring properties, the elevation and slope of the beach;
- f. Opportunity for alternatives, such as sand placement or dune restoration.

(2) A Class I Emergency Variance may be granted only for the temporary placement of sandbags for a period not to exceed three years, debris removal, ~~or~~ repair or replacement of roadways, or temporary installation of foundation

underpinnings within an existing structure's footprint when the existing structure has been undermined or destabilized by erosion. Sandbags must contain beach-compatible sand from an off-site source.

The Code Administrator may impose reasonable conditions upon the granting of a Class I Emergency Variance, including that development take place in accordance with a site plan; be designed to minimize damage to Beach stabilizing features and lateral pedestrian access; that the Code Administrator may annually inspect the sandbags to determine their condition and functionality; that the ~~Construction~~ sandbags be removed within a three-year period from the date of issuance of the Class I emergency variance; that a variance granted by the Board authorizing the foundation underpinnings on a permanent basis be obtained within a three-year period from the date of issuance of the Class I emergency variance; be reviewed by the Florida Department of Environmental Protection, Office of ~~Beaches~~ Resilience and Coastal ~~Systems~~ Protection; and, meet Construction requirements and conditions established by the Florida Department of Environmental Protection.

- (3) Factors considered by the Code Administrator in evaluating authorization, removal, or revocation of Class I Emergency Variances may include, but are not limited to:
  - a. The general status of the beach and dune system, such as erosion and accretion trends or events;
  - b. The condition of or impacts to adjacent areas, such as upland areas and neighboring properties;
  - c. The condition of native vegetation and opportunities for dune enhancement and restoration as an alternative to sandbag placement;
  - d. The distance from the ~~M~~mean H~~high W~~water Lline;
  - e. The type, size, and composition of bag used and condition of the sandbags over time, and whether they provide protection to the threatened structure;
  - f. Efforts of the property owner to seek approval for long-term shoreline management options; and
  - g. Existing violations of this Article or conditions of a Class I Emergency Variance.
- (4) The Code Administrator or Board, respectively, may modify or revoke a Class I Emergency Variance by following the same procedures as provided for approval of it.

(g) *Class II Emergency Variances.* ~~In addition to the regular variance procedures and requirements outlined in Section 54-724(a) through (c) and in addition to the Class I emergency variance procedures and requirements outlined in Section 54-724(f) of this article,~~ The Board may grant Class II emergency variances, under the circumstances and procedures identified in this subsection that would permit Construction and/or Excavation Seaward of the Gulf Beach Setback Line or Waterward of the Barrier Island Pass Twenty-Year Hazard line.

- (1) The Board may grant such variances only when the Board determines that strict enforcement of the provisions of this article would impose an unreasonable Hardship On The Land and; that the proposed action will minimize adverse impacts to Coastal Systems, and; that the variance would not be in substantial conflict with the attainment of the purpose of this article, and; the Board shall grant only the minimum variance necessary to protect reasonable use of the property until the Applicant applies for and obtains a regular variance, if necessary, for a more permanent structure, and shall not grant emergency variances for the creation of new lands or new permanent structures that did not exist before the emergency arose.
- (2) The Board may impose reasonable conditions upon the granting of the variance and may require that development take place in accordance with a site plan; be designed to ~~(3)~~ minimize damage to Beach stabilizing features and to minimize the need for subsequent variances for the Construction of seawalls or similar Shore Protection Structures; be designed to minimize adverse impacts to lateral public pedestrian access; be restricted to completion of Construction, repair, or Excavation within a fixed time from the date the variance is granted; be reviewed by the Florida Department of Environmental Protection; and that construction requirements established by state authorities be implemented. The Board may require the Applicant to apply for a regular variance pursuant to Section 54-724(a) or (b) within a specified time period after the granting of an emergency variance. Fees for emergency variances shall be the same as for regular variances, but may be waived or credited toward applications for regular variances submitted for the same property or properties within one year of the date the Board grants the emergency variance.
- (3) Reserved.
- (4) The Board may grant a Class II emergency variance after holding a public hearing when, because of special circumstances beyond the control of the petitioner, the Applicant is unable to file and obtain a variance under Section 54-724(a) or (b) of this article, in time to prevent damage to existing structures. Class II emergency variances may be granted only for Temporary Shore Protection Measures, ~~debris removal~~, or repair or replacement of utilities, roadways, and public facilities. No Class II emergency variance shall be considered by the Board until such time as notice of the public hearing on the proposed variance has been given by posting of the property at least five (5)

days in advance of the public hearing in accordance with the provisions of Section 54-724(e)(3).

- (5) The Code Administrator or Board, respectively, may modify or revoke a Class II emergency variance by following the same procedures as provided for approval of it.

**SECTION 5.** Section 54-725 of the Sarasota County Code of Ordinances is hereby amended to read as follows:

Sec. 54-725 Responsible parties.

- (a) The property owner and contractor, or the service providers retained by the Applicant or their representative, to conduct Construction and Excavation or other work covered by this article are jointly responsible for any activities authorized pursuant to this article.
- ~~(b) Prior to commencing any work, and within 60 days of the County permit issuance date, the property owner(s) and the contractor conducting the work must submit a signed form provided by the County attesting that the County authorization has been received and all conditions or stipulations are acceptable.~~
  - ~~(1) If a signed copy of the form is not received within 60 days of the receipt of the authorization (e.g., written conditioned exception, exception, or variance resolution), the Construction and Excavation shall not commence. This form shall be submitted to the County 15 days prior to the commencement of Construction and Excavation.~~
  - ~~(2) Failure to sign the form within the established timeframe may require reapplication.~~
  - ~~(3) The property owner(s), contractor, or service provider may decline to accept the authorization by notifying the County in writing within 14 days of the County approval.~~
- (be) Once work commences, all conditions or stipulations provided with the County approved authorization shall apply and shall be enforceable. Failure to adhere to these conditions or stipulations may be cause for the posting of a stop work order on site, revocation of the County approval, and/or code enforcement pursuant to Section 54-726 of this article.
- (cd) For activities that are performed without the appropriate authorization, or are performed in a manner that is inconsistent with the authorized plans and/or stipulations of the approval, the Code Administrator reserves the right to report the action to the appropriate contractor licensing board.

**Section 6.** Section 54-726 of the Sarasota County Code of Ordinances is hereby amended to read as follows:

Sec. 54-726 Violations and compliance.

Sarasota County has the authority to enforce any authorization or variance requirement/stipulation, as well as, any provisions of this article per Chapter II, Article VIII, of the Sarasota County Code of Ordinances and per provisions of the Florida Statutes, Chapter 162.

(a) Civil and Administrative.

- (1) The Code Administrator may withhold issuance of authorization or deny an application or other authorization if there is an existing unresolved violation of the Sarasota County Code on the subject property.
- (2) The Code Administrator will issue a stop work order when it has been determined that:
  - a. Work at the site is proceeding in violation of this article, or authorization issued hereunder or proceeding without any required authorization; or
  - b. Work at the site poses an imminent and significant hazard to the public health, safety, or welfare, or to the environment.
  - ~~e. The County may issue an After-the-Fact authorization to correct a violation.~~
- (3) The Code Administrator has the authority to review and approve after-the-fact activities that meet all of the standard approval and technical criteria for written conditioned exceptions or exceptions contained within this article.
- (4) All after-the-fact activities requiring a variance shall only be reviewed by the Board of County Commissioners.

(b) Enforcement and Penalties.

- (1) A violation of any provision of this article shall be processed according to Chapter II, Article VIII, of the Sarasota County Code of Ordinances and per provisions of the Florida Statutes Chapter 162. Each day of any such violation shall constitute a separate and distinct offense.
- (2) The Code Administrator may require corrective actions, including but not limited to: restoration of any native habitats impacted as a result of the

violation activities. The Code Administrator may also require monitoring in accordance with the standards established within the Land Development Regulations. The Code Administrator may also seek fines or penalties associated with irreparable or irreversible harm resulting from violations of this article.

- (3) Administrative costs and penalties collected as part of enforcement of this article shall be placed in the Sarasota County Pollution Control Recovery Trust Fund, as established in Resolution No. 91-360.
  - (4) Notwithstanding any other provisions of this article for enforcement or penalties, the Board may also enforce this article by action at law or in equity, for damages and injunctive or declaratory relief, respectively, in the appropriate court of competent jurisdiction. In the event that the Board prevails in any such action, the Board shall be entitled to an award of its costs and reasonable attorneys' fees.
- (c) Enforcement of Code by other means. A violation of any of the provisions of this article or of any regulations adopted or conditions associated with authorization approved pursuant to this article shall be punishable in the same manner as a misdemeanor as provided by law.

**SECTION 7.** Effective Date: This Ordinance shall take effect immediately upon filing with the office of the Florida Secretary of State.

**PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this \_\_\_\_ day of \_\_\_\_\_, 2023.**

BOARD OF COUNTY COMMISSIONERS  
OF SARASOTA COUNTY, FLORIDA

By: \_\_\_\_\_  
Chairman

ATTEST:

KAREN E. RUSHING, Clerk of Circuit  
Court and Ex-Officio Clerk of the Board  
of County Commissioners of Sarasota  
County, Florida

By: \_\_\_\_\_  
Deputy Clerk