

ORDINANCE NO. 1160

DISCUSS/TAKE ACTION ON ORDINANCE NO. 1160, AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 30, SATELLITE BEACH CITY CODE, AMENDING SECTION 30-107 DEFINITIONS, BY AMENDING DEFINITIONS FOR COASTAL CONSTRUCTION CONTROL LINE, OCEAN BLUFF LINE, OCEAN BLUFF PROTECTION ZONE, PRINCIPAL STRUCTURE AND ADDING DEFINITIONS FOR, COASTAL SETBACK LINE, CREST OF DUNE, EMERGENCY, EROSION, EROSION ADAPTATION ACTION AREA (EAAA), IMMINENT COLLAPSE, LANDWARD, LOWEST ENCLOSED AREA (LOWEST FLOOR), MODIFICATION, NGVD, OCEANFRONT LOT, 100-YEAR STORM, RIGID COASTAL AND SHORE PROTECTION STRUCTURE, SANDBAG, SEAWARD, STRUCTURE, SUBSTANTIAL DAMAGE, SUBSTANTIAL IMPROVEMENT, VULNERABLE STRUCTURE, AND; AMENDING SECTIONS 30-415 RM-3 RESIDENTIAL MIXED USE DISTRICT, 30-415.5 RM-4, MULTI-FAMILY RESIDENTIAL ZONING DISTRICT, AND SECTION 30-416, C-COMMERCIAL DISTRICT, TO PROVIDE SETBACKS FOR LOTS EAST OF AIA; AMENDING SECTION 30-510 ACCESSORY STRUCTURES FOR INTERNAL CONSISTENCY; DELETING SECTION 30-734 IN ITS ENTIRETY; ADDING DIVISION 4 TO ARTICLE VII-RESOURCE PROTECTION ENTITLED 'COASTAL CONSTRUCTION CONTROL LINE STANDARDS AND CRITERIA' AND SETTING FORTH THOSE STANDARDS; AMENDING SECTION 30-423 NONCONFORMITY; AMENDING SECTION 30-205(b)(1), POWERS AND DUTIES OF BOARD OF ADJUSTMENT, ESTABLISHING THE SUBJECT MATTERS AND CONDITIONS ON WHICH THE BOARD MAY GRANT VARIANCES TO THE COASTAL CONSTRUCTION CONTROL LINE (CCCL) SETBACKS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, that portion of City east of Highway A1A is located entirely within the Erosion Adaptation Action Area (EAAA) and is uniquely vulnerable to erosion, storm surge, sea level rise, and other disasters; and

WHEREAS, City regulations must take these issues into consideration when establishing setbacks from the Coastal Construction Control Line as it relates to the development, redevelopment and repair of such lots and structures located east of Highway A1A and within the EAAA; and

WHEREAS, the Planning Advisory Board conducted a duly noticed public hearing, and after considering the provisions of this proposed ordinance and determining the proposed amendments are consistent with the City's Comprehensive Plan and adopted Land Development Regulations, recommends to City Council that the revisions set forth herein be made; and

WHEREAS, the City Council, following all public hearings required by law preliminary to the adoption of this Ordinance, has determined that the proposed amendments are consistent

with the City's Comprehensive Plan and adopted Land Development Regulations, and are in the best interest of the general health, safety and welfare of the City and its residents to adopt this Ordinance; and

WHEREAS, the City Council adopted Ordinance No. 1159 to identify and implement various policies contained within the City's Comprehensive Plan related to seal level rise, erosion and its Erosion Adaptation Action Area (EAAA); and

WHEREAS, the City Council desires to implement Ordinance No. 1159 for certain areas of the City located within the EAAA by adopting the regulations set forth in this Ordinance; and

WHEREAS, in arriving at the regulations contained in this Ordinance, City Council attempted to balance the interests of the public with the private property rights of those persons owning property east of Highway A1A.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA as follows:

SECTION 1. The foregoing recitations are true and correct and by this reference are incorporated herein.

SECTION 2. Section 30-107, Satellite Beach City Code, is amended to read as follows:

Sec. 30-107. – Definitions.

When used in this chapter, the following words and phrases shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Words not defined in this Section or in the Comprehensive Plan shall have the meanings in Webster's New Collegiate Dictionary, as revised.

Breakaway Walls means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specified lateral loading forces, including wind and water, without causing damage to the elevated portion of the building or supporting foundation system.

Coastal Construction Control Line (CCCL) means the 1981 Coastal Construction Control Line established by the State of Florida.

Coastal Setback Line (CSL) shall be described as a line 15 feet west by perpendicular measurement from a line previously described as the 1981 FDEP Coastal Construction Control Line.

Emergency means any occurrence or threat thereof whether accidental or natural, caused by humankind, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property or public funds. For purposes of this definition, a vulnerable structure that is in danger of imminent collapse qualifies as an emergency.

Erosion means the wearing away of land or the removal of beach or dune material by wave action, tidal currents, littoral currents or deflation, including horizontal recession or scour, which occurs when the topography of the beach-dune system is completely inundated by a storm surge and wave and current forces erode the beach-dune profile in a vertical direction.

Erosion Adaptation Action Area (EAAA) means all the area of lands in the City east of Highway A1A.

Imminent collapse means the foundation of a structure will fail due to its own weight under normal conditions, resulting in structural damage to the supported structure. This shall be determined by the Building Official, who at his discretion may require tests or modeling of dune erosion anticipated to result from a 15-year return interval storm. Such modeling must be calibrated to the site conditions and performed by a professional engineer licensed in the state, with demonstrated competency in coastal engineering.

Landward means in a direction away from the Atlantic Ocean.

Lowest enclosed area/Lowest floor: Under the NFIP, the “lowest floor” is the floor of the lowest enclosed area of a building. An unfinished or flood-resistant enclosure that is used solely for parking of vehicles, building access, or storage is not the lowest floor, provided the enclosure is built in compliance with applicable requirements. As used by the NFIP, an “enclosure” is an area that is enclosed on all sides by walls. The NFIP regulations also specify that enclosures may be used only for parking of vehicles, building access, or storage; that all material below the BFE, including materials used to construct enclosures, be flood damage-resistant materials; and that construction methods and practices minimize the potential for flood damage.

(Note: The NFIP requires that all new buildings, substantially damaged buildings, and substantially improved buildings in Coastal High Hazard Areas (Zones V, VE, and V1030) be elevated to or above the base flood elevation (BFE) on open foundations consisting of piles, posts, piers, or columns. These open foundations must be designed to allow waves and water moving at high velocity to flow beneath buildings.) (The local government, based upon its own goals, objectives, policies may set that elevation as deemed appropriate.)

Illustrative example:

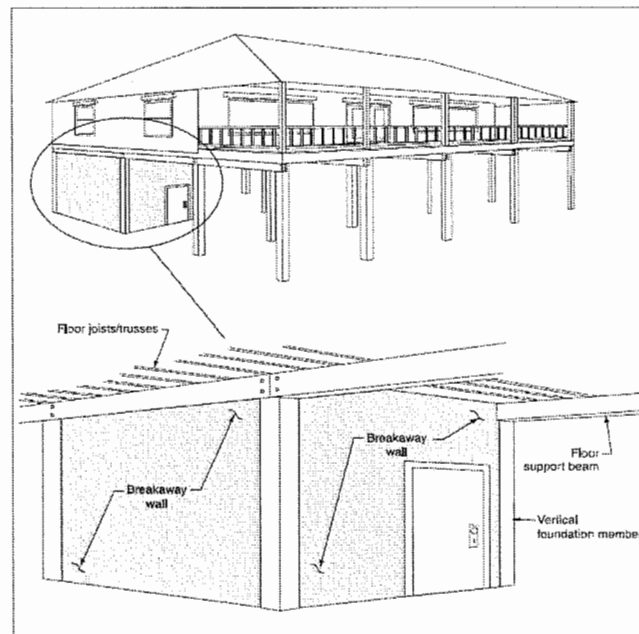


Figure 1. Area enclosed by breakaway walls below an elevated building

Modification means any alteration to the existing nonconforming principal structure or accessory structure that does not expand the vertical envelope established by the existing footprint of the structure further into the area seaward of the Coastal Setback Line.

NGVD means National Geodetic Vertical Datum, as established by the National Geodetic Survey of the National Oceanic and Atmospheric Administration.

100-year storm means a shore-incident hurricane or any other storm with accompanying wind, wave and storm surge intensity having a one percent chance of being equaled or exceeded in any given year, during any 100-year interval.

Ocean bluff line means the highest elevation of the dune, known as the dune crest as defined in Sec. 66-51, Satellite Beach City Code, or an armoring structure in existence when this chapter was adopted, whichever is further west.

Ocean bluff protection zone means that area seaward of the Coastal Construction Control Line.

Oceanfront lot means any lot which either (i) has any lot line that abuts the mean high-water line or ocean bluff line in whole or in part; or (ii) touches or is bisected by the Coastal Construction Control Line; or (iii) is located east of Highway A1A and is within the Erosion Adaptation Action Area (EAAA).

Principal structure means the major habitable building or structure, generally enclosed and/or built on a foundation, which is constructed or erected, the use of which requires rigid location on the ground or attachment to something having a permanent location on the ground, which establishes an identifiable purpose, use or function for the site, including, but not limited to: houses or single-family residential buildings; multiple-family residential buildings; condominiums; motels; hotels; apartments; restaurants; shops; other similar residential, commercial, recreational or public buildings.

Rigid coastal and shore protection structure means shoreline hardening structures including sea walls, bulkheads, revetments, mound structures, and groins and breakwaters.

Sandbag system means sandbags, geotextiles, tubes, and any other pliable or soft shoreline protection system meant as temporary erosion control measure.

Seaward means in a direction toward the Atlantic Ocean.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Structures that are determined to be substantially damaged are considered to be substantial improvements, regardless of the actual repair work performed.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed.

Structure means anything which is constructed or erected, the use of which requires rigid location on the ground or attachment to something having a permanent location on the ground.

Vulnerable structure means any principal or accessory structure or public infrastructure whose foundation or support system has been damaged to the extent that in the opinion of the Building Official is in danger of imminent collapse.

SECTION 3. Section 30-415, Satellite Beach City Code, is amended to read as follows:

Sec. 30-415. – RM-3, residential-mixed use district.

(d) *Property development regulations.* Property development regulations (excluding townhouse development) are as follows:

(3) Minimum setback requirements

- a. *Front:* 25 feet.
- b. *Side interior:* 25 feet, except 15 feet between commercial land uses.
- c. *Side corner:* 25 feet.
- d. *Rear:* 25 feet except 15 feet between commercial land uses.

NOTE: All properties shall contain a five-foot landscape strip which may be included within the required setback, along the entire perimeter of any property in this district with plants at least four feet high at the time of planting. Plants must be selected from the list provided in Section 30-704, Satellite Beach City Code. In the event of a conflict between landscape provisions, the most restrictive provisions shall apply. For properties located east of Highway A1A, all or a portion of which are located on a dune, there is no minimum height requirement for any required plantings located on the dune.

- e. The provisions of Article VII Division 4, Coastal Construction Control Line Standards and Criteria shall apply for all lots east of Highway A1A and in general are:
 1. Front Setback: 5 feet from the lot line.
 2. Side interior setbacks for lots east of Highway A1A are established through the breezeway requirements.
 3. Side corner: 5 feet minimum which may be included as part of the breezeway requirements.
 4. Rear: 15 feet landward of the CCCL.
 5. There is a minimum of 15 feet setback landward from the CCCL for any structure nearest the CCCL.

NOTE: All properties shall contain a five-foot landscape strip which may be included within the required setback, along the entire perimeter of any property in this district with plants at least four feet high at the time of planting. Plants must be selected from the list provided in Section 30-704, Satellite Beach City Code. In the event of a conflict between landscape provisions, the most restrictive provisions shall apply.

- (4) Additional setbacks for all building types:
 - a. Canal bulkhead line: 20 feet.
 - b. River bulkhead line: 20 feet.

- (12) For multifamily and duplexes uses, one-car off-street space is required per unit (nine (9) feet by 18 feet). For single-family uses, an area the equivalent of 20 feet by 20 feet shall be provided for off-street parking. The area may be an attached or detached two-car garage or pervious parking area, any of which must be approved by the Building Official. For all single or multi-family sites east of Highway A1A, all detached or attached garages on the ground or first floor level must be built to Article VII Division 4 standards.

SECTION 4. Section 30-415.5, Satellite Beach City Code, is amended to read as follows:

Sec. 30-415.5. – RM-4, multi-family residential zoning district.

- (c) *Property development regulations.* Property development regulations are as follows:
 - (2) Minimum setback requirements:
 - e. The provisions of Article VII Division 4, Coastal Construction Control Line Standards and Criteria shall apply for all lots east of Highway A1A and in general are:
 - 1. Front setback: 5 feet from the lot line.
 - 2. Side interior setbacks for lots east of Highway A1A are established through the breezeway requirements.
 - 3. Side corner: 5 feet minimum may be included as part of the breezeway requirements.
 - 4. Rear: 15 feet landward of the CCCL.
 - 5. There is a minimum of 15 feet setback landward from the CCCL for any structure nearest the CCCL.

SECTION 5. Section 30-416, Satellite Beach City Code, is amended to read as follows:

Sec. 30-416. – C, commercial district.

(e) *Property development regulations.* Property development regulations are as follows:

(2) Minimum setback requirements:

b. *Side interior and rear:* 15 feet, or 25 feet if adjacent to a dedicated right-of-way or adjacent abutting residential use.

c. *Street side yard:* 20 feet.

d. Minimum building separation 15 feet.

e. For all lots east of Highway A1A, the provisions of Article VII Division 4, Coastal Construction Control Line Standards and Criteria shall apply, in addition to the following:

1. Front setback: 5 feet from the lot line.

2. Side interior: Side interior setbacks for lots may be reduced to zero (0') feet if other conditions of this Chapter are met.

3. Street side yard setbacks for lots may be reduced to zero (0') feet if other conditions of this Chapter are met.

4. Rear: 15 feet landward of the CCCL.

5. There is a minimum of 15 feet setback landward from the CCCL for any structure nearest the CCCL.

NOTE: All properties shall contain a five-foot landscape strip which may be included within the required setback, along the entire perimeter of any property in this district with plants at least four feet high at the time of planting. Plants must be selected from the list provided in Section 30-704, Satellite Beach City Code. In the event of a conflict between landscape provisions, the most restrictive provisions shall apply.

SECTION 6. Section 30- 510, Satellite Beach City Code, is amended to read as follows:

Sec. 30-510. – Accessory structures.

(d) *Enclosed buildings.*

(1) Enclosed buildings, except detached garages, shall not exceed 150 square feet in floor area. All enclosed buildings/structures larger than 150 square feet shall meet the setbacks of the district in which it is located. Walls shall not exceed seven feet in height. No enclosed building shall exceed 10 feet in overall height. A maximum two-foot overhang is permitted, except there may be a maximum four-foot overhang over doorways.

(g) *Detached Garages.*

Lots used for single family or duplex residential dwellings east of Highway A1A may have a detached garage structure which must not exceed 20 feet by 20 feet or equivalent square footage; must be fully enclosed with either breakaway walls or other regulatory enclosure system; must meet the zoning setbacks for the principal structure; and the garage structure shall not exceed 15 feet in height. East and west facing walls shall be breakaway as defined by FEMA or the Florida Building Code. Garage doors installed in enclosures with breakaway walls are not exempt from the NFIP requirements to break away under flood conditions. Garage doors may be designed and detailed using the performance-based design provisions under the National Flood Insurance Program.

- (h) *Prohibited uses.* Accessory structures shall not be used for living quarters, business uses, home occupations (other than storage), commercial equipment, or commercial kennels.
- (i) *Use of vehicle as storage/utility building.* Vehicles, including cargo or utility trailers and mobile homes, shall not be used as storage or utility buildings, except that trailers may be temporarily used in construction if a building permit has been issued. The trailer shall be removed within 10 days after a certificate of occupancy is issued.

SECTION 7. Section 30- 734, Satellite Beach City Code, is hereby deleted in its entirety.

Sec. 30-734. – Reserved.

SECTION 8. Article VII, Division 4, is hereby created to be titled as follows: Coastal Construction Control Line (CCCL) Standards and Criteria.

Sec. 30-736. – Purpose and Intent, Administration and Conflict.

- (a) The City desires to prohibit the construction of any structures seaward of the Coastal Setback Line and:
 - (1) to create a buffer between the CCCL and the structures by creating a new setback landward of the CCCL;
 - (2) to discourage the further construction of rigid coastal and shore protection structures;
 - (3) to regulate the location of development and redevelopment of all properties located east of Highway A1A;
 - (4) to define that portion of the beach-dune system which is subject to severe fluctuations based on conditions associated with erosion, storm surge, sea level rise, or hurricanes;
 - (5) to implement the Coastal Element of the City's Comprehensive Plan;
 - (6) to promote a managed retreat from the sensitive ocean bluff and Erosion Adaptation Action Areas; and

- (7) to employ special construction standards and processes for structures to be located landward of the Coastal Construction Control Line, so as to protect the structures and human life from the perils of storm and sea.
- (b) The City Manager, or designee, shall be responsible for the implementation, administration, interpretation and decision-making regarding provisions of this Division.
- (c) In the event of a conflict between this Division and other provisions of the Land Development Regulations in relation to development, redevelopment, construction, reconstruction, modification, repair, or replacement of any principal or accessory structure(s) on lands east of Highway A1A, or Ordinance No. 1088 and the National Flood Insurance Program, the most restrictive regulations shall govern.
- (d) The terms 'oceanfront lot', lots east of Highway A1A, and lots within the EAAA shall refer to all lots lying east of Highway A1A as of November 7, 2018 and shall hereinafter be referred to in this Section as "lot" or "lots".

Sec. 30-737. – New Coastal Setback Line established and dunes protected.

- (a) The City has determined that the 1981 Coastal Construction Control Line (CCCL) set by the State of Florida shall be the governing line for controlling development and redevelopment of all lands lying east of Highway A1A in the City and that a Coastal Setback Line (CSL) shall be established at 15 feet landward of the 1981 CCCL.
- (b) No new principal structure(s) or accessory structure(s) shall be constructed seaward of the Coastal Setback Line.
- (c) All excavations, including the removal or alteration of soil, sand or vegetation by digging, dredging, filling, drilling, cutting, scooping or hollowing out shall be prohibited seaward of the Coastal Setback Line. This subsection shall not preclude FDEP permitted sandbag systems for vulnerable structures as defined in this code, beach renourishment projects, beach restoration projects, or dune restoration projects, nor shall this subsection preclude rigid coastal and shore protection structures approved by the City in emergency situations in accordance with Article VII, Division 3B, armoring.
- (d) Native dune vegetation seaward of the FDEP 1981 Coastal Construction Control Line (CCCL) shall not be removed. Clearing of any native dune vegetation landward of the CCCL shall be the minimum necessary for the construction of the structure. Clearing shall be accomplished without the use of motorized vehicles. Any altered or cleared areas shall be re-vegetated with native dune plant species following completion of the construction and shall be planted at such density to achieve a minimum coverage of 80 percent within one year following planting. A clearing and re-vegetation plan shall be submitted for approval in conjunction with the building permit application.

Sec. 30-738. – Design standards.

The following shall govern the construction, reconstruction, modification, repair or replacement of principal or accessory structures or portions thereof for all properties located east of Highway A1A.

- (a) The requirements of this Section shall not prevent construction or replacement of a single-family residence on any lot where the structure is at least 1100 square feet, the structure is constructed 15 feet landward of the Coastal Construction Control Line and within the required setbacks of this Section, and all other requirements of this Division are met.
- (b) All principal and accessory structures shall be setback from the CCCL as follows:
 - (1) All new principal and accessory structures greater than 150 square feet shall be setback a minimum of 15 feet landward of the CCCL.
 - (2) All other accessory structures shall be setback a minimum of 10 feet landward of the Coastal Setback Line.
- (c) Any principal structure may be built or re-built, constructed or reconstructed within the remaining lot boundaries regardless of the zoning district and without requiring a variance as follows:
 - (1) Minimum front setback shall be 5 feet from the front lot line.
 - (2) Side setbacks shall meet all minimum breezeway requirements contained in the City's Land Development Regulations.
 - (3) Side corner: 5 feet minimum on the street side must be maintained, and may be included in the breezeway requirements.
 - (4) A 15 feet setback landward of the CCCL shall be maintained on any portion of the lot that is nearest the CCCL.
 - (5) Other setback requirements as dictated by the governing zoning district not in conflict with this Division.
- (d) If any principal or accessory structure(s), or portion of such structure(s), located on any lot, extends seaward of the CCCL and (i) sustains less than substantial damage due to catastrophic events such as erosion, sea level rise, storm surge, hurricanes or similar natural event or cause, and whose foundation is determined in the opinion of the Building Official to be undamaged, or (ii) sustains any damage due to other casualty not included in (i) above, that does not affect the foundation, the owner shall be allowed to modify, maintain, repair or rebuild on the existing foundation, including the undamaged portion of the foundation that is located seaward of the CCCL, subject to and in conformance with other provisions of this Division and applicable sections of the Land Development Regulations and any limitations contained in Ordinance No. 1088.

NOTE: this is one of the grandfather clauses and it applies when there is less than 'substantial damage' as defined herein; an owner can modify in place for

catastrophic event, INCLUDING erosion. The County's ordinance EXCLUDES erosion, but allows for all others noted.

- (e) When a principal or accessory structure(s) or portion of such structure(s), located on any lot extends seaward of the CCCL sustains substantial damage or becomes in the opinion of the Building Official a vulnerable structure due to erosion, sea level rise, storm surge, or hurricanes or other disaster, or any portion of the foundation lying seaward of the CCCL is required to be removed, repaired, or replaced, that portion of the principal or accessory structure extending seaward of the CCCL shall be removed, re-constructed or replaced in conformance with the setbacks set forth in this Section and no portion of such remaining structure(s) shall be located seaward of the CCCL.
- (f) New or reconstructed principal residential structures required by this Division, on all lands lying east of Highway A1A in all flood zones, shall meet the following standards:
 - (1) All habitable space and the lowest floor shall be elevated above any dune vegetation and be built on approved stilts/pilings to a minimum of 3 feet above the BFE. In accordance with FEMA and NFIP regulations, the area below an elevated building can be used only for parking, building access, bathroom or storage. Enclosures shall conform to FEMA and NFIP standards. No mechanical, electrical, or plumbing equipment is to be installed below the BFE, except in accordance with FEMA and NFIP.
 - (2) An owner may elevate the structure more than 3 feet of the BFE as desired and approved by the Building Official and in accordance with FEMA and NFIP standards.
- (g) Non-residential commercial structures which because of their intended use, must be constructed on grade, shall be flood-proofed to or above BFE elevation as outlined for the various FIRM zones and in accordance with the standards adopted by the City.
- (h) If a property is located within 10 feet of the dune crest line, the owner shall assume responsibility of maintaining the dune profile at the property by submitting a perpetual dune maintenance plan sealed by a professional engineer or landscape architect and submitted to the City for review. The plan shall establish the minimum necessary sand requirements so as to:
 - (1) Minimize adverse impacts to the naturally functioning beach and dune system;
 - (2) Minimize adverse impacts to adjacent properties;
 - (3) Be designed so as to not impede public access to or along the shore;
 - (4) Avoid any adverse impact to marine turtles or their nesting habitat; and
 - (5) Provide appropriate monitoring to ensure compliance with the dune maintenance plan. Failure of the property owner to maintain the dune in accordance with the approved plan shall constitute a violation of this Division.

- (i) The setback provisions of this Division shall not apply to any modification, maintenance or repair of any pre-existing non-conforming principal or accessory structure as of the effective date of this Ordinance provided that such modification, maintenance or repair is not caused by erosion, sea level rise, storm surge, or hurricanes or other disaster, and the modification, maintenance or repair:
 - (1) Does not expand the structure further into the area seaward of the Coastal Setback Line;
 - (2) Does not alter the foundation area seaward of the CCCL except as is necessary to meet current building code for the existing use;
 - (3) Does not convert principal structures into accessory structures or accessory structures into principal structures.
- (j) To the extent that portions of a lot lying east of Highway A1A becomes unusable or unbuildable due to damage by erosion, sea level rise, storm surge, or hurricanes, the remaining portions of such lots shall be deemed buildable and no variance will be required for use of the remaining lot event if it does not meet the required lot size in the zoning district in which it is located, as long as all other provisions of this Division can be met.
- (k) Fences on lands adjacent to or bi-sected by the CCCL shall meet the following standards, in addition to the requirements of Section 30-516. Fences may not be located seaward of the CCCL and for the side parallel to the Atlantic Ocean, no fence shall be allowed to exceed 6 feet in height.

Sec. 30-739. – Variances and action by the Board of Adjustment.

The Board of Adjustment may consider granting a variance to the CCCL setback on lands used for single family, townhome or duplex purposes on lots located east of Highway A1A when the foundation of the principal or accessory structure(s) is/are damaged by catastrophic events such as hurricanes, storm surge, sea level rise, or similar natural event or cause, except erosion, as well as any other casualty. For erosion events, the provisions of Section 30-739(f) shall apply. The following provisions and considerations shall apply.

- (a) In no event shall the Board of Adjustment have authority to grant a variance that allows any principal structure, or any accessory structure to be less than 5 feet landward of the CCCL.
- (b) The Board of Adjustment may only grant a variance when in their opinion:
 - (1) The variance shall not be injurious to adjacent properties, or contrary to the public interest;
 - (2) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and

- (3) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the environment or public welfare.
- (c) Nothing in this Division shall preclude any property owner to apply for a variance to other code requirements not identified herein for any lot east of Highway A1A.
 - (d) When any property is granted a variance allowing a replacement structure or portions thereof, to be built less than 15 feet landward of the CCCL, the Building Official may also apply such reasonable conditions as deemed necessary based upon the particular situation of the property and damage and/or as needed to maintain the purpose and intent of this Division.
 - (e) When any property is granted a variance allowing a new or replacement structure to be built less than 15 feet landward of the CCCL, in order to protect life and property and those on adjacent and surrounding properties, all habitable space and the lowest floor shall be elevated above any dune vegetation and be built on approved stilts/pilings to a minimum of 10 feet above the BFE. In accordance with FEMA and NFIP regulations, the area below the lowest floor can be used only for parking, building access, bathroom or storage. Construction shall conform to FEMA and NFIP standards.
 - (f) Properties where the principal or accessory structures have been substantially damaged due to erosion and where the foundations located seaward of the CCCL must be removed, are eligible to apply for a CCCL setback variance one (1) time and must comply with the remaining required setbacks and building standards set forth in this Section. The Board of Adjustment may grant the requested variance, after public hearing, in those cases where the facts presented at the public hearing evidence that the project meets the following conditions:
 - (1) Variances from the setback provisions of Section 30-738 may be granted if the subject property has experienced net natural accretion since September 1972. This shall be linearly interpolated from survey data collected at the State Department of Natural Resources monuments immediately north and south of the subject property. The accretion shall be demonstrated by:
 - a. Measuring horizontal accumulation from the toe of the dune as it exists at the time of application, to the point on the dune as it existed in September, 1972, which corresponds to the same elevation as the toe of the dune as it exists at the time of application;
 - b. Measuring net profile area increase between the County Coastal Setback Line and the toe of the dune as located in 'a' above. If there is net gain in the interpolated profile area, linear accretion shall be calculated by dividing the profile area by the dune height. The dune height shall also be interpolated from the state monuments located immediately north and south of the subject property by measuring from the toe of the dune, as located in 'a' above, to the highest point of the dune seaward of the County Coastal Setback Line; and

- c. That the granting of the variance shall not be injurious to adjacent properties, or contrary to the public interest.
- (2) Minimum submittal requirements:
- a. In addition to requisite fees, forms, and other requirements set forth by the City for making application to the Board of Adjustment, an applicant shall also supply one (1) copy of a topographic survey of the subject property, prepared or verified for accuracy not more than six (6) months prior to date of application, and certified by a land surveyor registered in the state. The topographic survey shall include the following specific information:
 1. The location of the contour line corresponding to elevation zero NGVD.
 2. The location of any existing vegetation line on the subject property.
 3. The location of the established State Department of Natural Resources Coastal Construction Control Line, the County Coastal Construction Control Line, the mean high-water line and the Coastal Setback Line for the full width of the subject property, including the location and number of the two nearest baseline monuments of the State Department of Natural Resources.
 4. The location of any existing structures on the subject property, and properties to the north and south, and the location of any proposed construction or activity.
 - b. The applicant shall also submit one (1) copy of detailed final construction plans and specifications for all structures proposed to be constructed seaward of the Coastal Setback Line. These documents shall be signed and sealed by a professional engineer or architect, as appropriate, who must be registered in the state.
 - c. A copy of the fully completed application for variance, together with all supporting documents, shall be reviewed by the Building Official. No variance granted by the City shall be deemed in effect until copies of applicable valid state permits for the same location and activity have been received by the Building Official.

Sec. 30-740. – Properties not eligible to apply for a second variance.

In order to reduce the fiscal impacts to the public, to the Flood Insurance Program, or other publicly funded resources and to promote managed retreat from the CCCL, the following rules shall apply:

- (a) If the same property that received a setback variance for erosion is damaged by erosion, sea level rise, storm surge, hurricanes, or other disaster, the property is not eligible for another variance to the CCCL setback.
- (b) Any principal or accessory structure or structures that are substantially damaged after being replaced in their pre-damaged location under this Division are damaged

by any subsequent catastrophic incidence, such structures will thereafter be required to meet the prevailing setback or other locational requirements in effect at the time of the subsequent damage and not eligible for setback variance.

- (c) Should any property that has received a variance to the setback nearest the CCCL be damaged by erosion, that property is not eligible to receive another variance to the setback requirements; and the original variance becomes null and void.
- (d) Thereafter, that property shall conform to the requirements herein.

SECTION 9. Section 30-423, Satellite Beach City Code, is amended to read as follows:

Sec. 30-423. – Nonconformity.

- (a) *Generally.*
 - (2) No lot existing when this article was adopted shall be reduced in size below the minimum requirements of this article. Lots created after this article was adopted shall meet the minimum requirements established by this article, except those lots east of Highway A1A within the EAAA, that may be affected by erosion, storm surge, sea level rise, hurricanes or other disasters. (this is another grandfather clause)
- (c) *Nonconforming structures.* If a structure lawfully in existence when this article was adopted could not be built or modified under this article, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (3) *Damage or destruction of structure.* Any structure, either existing, permitted or approved by the appropriate regulatory agency or agencies on November 7, 2006, shall be allowed to be built, rebuilt or repaired in the event of a casualty or catastrophe, even if such structure(s) is or are nonconforming for failure to comply with the then-existing regulations governing density, height and/or breezeway, except for structures that become substantially damaged or become vulnerable structures due to erosion, which must come into conformance with Article VII, Division 4. (this grandfathers owners as well for all but erosion- if they are not substantially damaged-owners can modify in place)
- (e) *Nonconforming uses of structures.* If a structure use lawfully in existence when this article was adopted is not allowed under this article, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (2) *Repair of structure with nonconforming use.*
 - b. Nothing in this article shall be deemed to prevent restoring to a safe condition any structure, or part thereof, declared to be unsafe by any public-safety official, except for structures that become substantially damaged or become vulnerable structures due to erosion, which must come into conformance with Article VII, Division 4.

SECTION 10. Section 30-205(b)(1), Satellite Beach City Code, is amended to read as follows:

Sec. 30-205. Powers and duties.

(b) *Variances.* The board shall hear and decide requests for variances.

(1) *Permissible subject matter.* The board may grant variances for the following matters only: structure size and height, lot size and area, yard size and amount of open space, setbacks, fences, and landscaping. Notwithstanding the foregoing, the board shall not be authorized to either consider or grant any application seeking a variance (i) to allow construction of any structure seaward of or within 5 feet landward of the CCCL, (ii) to allow a fence to be constructed not in conformance with the code, or (iii) from the landscape requirements set forth in Sec. 30-415, 30-415.5 or 30-416.

SECTION 11. SEVERABILITY CLAUSE. In the event a court of competent jurisdiction shall hold or determine that any part of this Ordinance is invalid or unconstitutional, the remainder of the Ordinance shall not be affected thereby; and it will be presumed that the City Council for the City of Satellite Beach did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the City Council would have enacted the remainder of this Ordinance without said invalid and unconstitutional provision thereby causing said remainder to remain in full force and effect.

SECTION 12. REPEAL OF INCONSISTENT PROVISIONS. That all ordinances or parts of ordinances in conflict are hereby repealed.

SECTION 13. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption.

SECTION 14. This Ordinance was duly passed on first reading at a regular meeting of the City Council on the 17th day of October, 2018 and adopted on the second and final reading at the regular meeting of the City Council on the 7th day of November, 2018.



ATTEST:

Leon Olexa

LEONOR OLEXA, CMC, CITY CLERK

Frank P. Catino

FRANK P. CATINO, MAYOR