

ORDINANCE 2021-13

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF VOLUSIA, BY AMENDING CHAPTER 50, SECTION 50-71 DEFINITIONS; BY ADDING SUBSTANTIAL DAMAGE DEFINITION; BY REPEALING AND REPLACING DIVISION 9, ENVIRONMENTAL STANDARDS FOR BEACH AND DUNE PROTECTION, ARTICLE III MINIMUM STANDARDS FOR ENVIRONMENTAL PROTECTION, CHAPTER 50 ENVIRONMENT AND REPEALING AND REPLACING DIVISION 15, ENVIRONMENTAL STANDARDS FOR BEACH AND DUNE PROTECTION, ARTICLE III LAND DEVELOPMENT REGULATIONS, CHAPTER 72 LAND PLANNING; BY PROVIDING FOR EXEMPT ACTIVITIES; BY PROVIDING FOR PERMITTING AND PERMIT ISSUANCE STANDARDS; BY PROVIDING FOR BEACH AND DUNE WALKOVER STANDARDS; BY PROVIDING FOR ARMORING PROJECT STANDARDS; BY PROVIDING FOR DUNE RESTORATION AND SAND PLACEMENT; BY PROVIDING FOR RESTORATION AND CLEANUP; BY PROVIDING FOR A DUNE RESTORATION TRUST ACCOUNT; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:

(Words in ~~strike through~~ type are deletions; words in underscore type are additions.)

SECTION I: That Section 50, Environment, of the Code of Ordinances, County of Volusia, is amended as follows:

...

Section 50-71. Definitions.

The following words, terms and phrases, when used in this article, 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 shall be construed to have the meaning given by common and ordinary use as defined by Webster's New World Dictionary, Second College Edition.

...

Substantial damage. Damage of any origin sustained by a structure as assessed by the property appraiser whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the structure before the damage occurred.

...

SECTION II: Division 9, Beaches and Dunes, Article III Minimum Standards For Environmental Protection, Chapter 50 Environment, Code of Ordinances, County of Volusia, is repealed in its entirety and replaced as follows:

DIVISION 9. –BEACHES AND DUNES

SECTION 50-341 – Purpose and intent.

It is the purpose of this regulation to provide certain minimum standards that promote restoration and preservation of the vital beach and dune system along the Atlantic coast of Volusia County, Florida. The intent is to regulate coastal construction activities that affect the beach and dune system and that may degrade its natural processes and functions. All such standards shall meet or be more restrictive than the Florida Department of Environmental Protection (FDEP) standards.

SECTION 50-342 – Jurisdiction.

This division shall apply to the beach and beach approaches, as defined in Chapter 20, Beach Code, Volusia County Code of Ordinances, whether located in incorporated area or unincorporated area of Volusia County. The County will notify a municipality of receipt of a permit application herein of a project within an incorporated area.

SECTION 50-343– Penalty.

Violations of this division are punishable as provided in section 1-7.

1 **SECTION 50-344 – Exemptions.**

2 Activities that are exempted from this division include:

- 3 a. Planting native coastal vegetation on property or lots abutting the Atlantic Ocean.
- 4 b. Removal of debris, unpermitted structures or non-functioning coastal armoring.
- 5 c. Mechanical beach cleaning, provided that it conforms to the standards contained in division
- 6 6 of this article, pertaining to sea turtle protection, if said activity is permitted by FDEP,
- 7 and does not enter the Conservation Zone or the Natural Beach Management Areas.
- 8 d. Any work performed by the United States Army Corps of Engineers (ACOE), the Florida
- 9 Inland Navigation District (FIND), the Florida Department of Transportation (FDOT), the
- 10 Florida Department of Environmental Protection (FDEP), or their designee.
- 11 e. Any maintenance, repair, replacement, improvement or construction activities performed
- 12 by the county on the beach or on or adjacent to any Volusia County beach approach, as
- 13 defined in Chapter 20, Beach Code, Volusia County Code of Ordinances.

14 **SECTION 50-345 – Reserved.**

15

16 **SECTION 50-346 – Enforcement.**

17 Volusia County Environmental Management Division shall administer the provisions of

18 this division countywide.

19 **SECTION 50-347 – Conservation zone.**

20 A conservation zone is established along the public driving portions of the Atlantic Ocean

21 beach of the county in accordance with the standards and requirements contained in the Volusia

22 County Sea Turtle Habitat Conservation Plan.

23 **SECTION 50-348 – Beach and dune permit.**

24 A permit shall be required for any excavation, erosion control activities, sand placement,

25 dune restoration, armoring, and maintenance, repair, replacement, improvement, or construction

26 activities related to any structure on the beach or beach approach, as defined in Chapter 20, Beach

27 Code, Volusia County Code of Ordinances. An application for a permit shall be submitted with

28 the required information contained in Section 72-1053 of the Code of Ordinances.

1 **SECTION 50-349 – Standards for permit issuance.**

2 In determining whether the project is permissible under the provisions of this article, the
3 Environmental Management Director (EMD) shall consider, but not be limited to, the following
4 criteria:

- 5 a) The necessity to conduct such coastal projects for potential benefits versus adverse impacts
6 to the coastal system to include consideration of the feasibility factors contained in section
7 50-351(a)(5).
- 8 b) The degree, if any, of interference or reduction of public access along the beach. There
9 should be no loss or reduction to public access to the beach after construction and the
10 impact to public access during construction must be minimized to the maximum extent
11 practicable.
- 12 c) For armoring projects, the distance (linear feet) of the project from existing adjacent,
13 structurally sound seawall, bulkhead or revetment existing on the effective date of this
14 article to determine if it is located in a predominately natural coastline (PNC) area or a
15 predominately armored (non-PNC) area.
- 16 d) The ability of armoring to achieve the purpose of stabilizing the upland dune system, thus
17 protecting the upland structure from coastal erosion.
- 18 e) The condition and design of armoring on either side of the proposed site.

19 **SECTION 50-350 – Standards for beach and dune walkovers.**

20 Beach and dune walkovers may be constructed for the purpose of maintaining or enhancing
21 pedestrian access to the beach and to minimize habitat impact where there is currently no walkover.
22 All applicable state and local permits necessary for construction of beach and dune walkovers must
23 be obtained prior to the start of construction. This section applies to new or reconstructed
24 walkovers. A reconstructed walkover is one which has sustained damage in excess of 50% of its
25 replacement value as determined by the appropriate Building Official. The following standards
26 apply:

- 27 a) Walkovers are required at all new public access points and adjacent to all new multi-family
28 dwelling structures, hotel or motel complexes, and other commercial establishments which
29 allow ingress and egress to the beach and lack access to existing walkover structures or
30 ramps.

- 1 b) Walkovers shall be constructed in a manner that minimizes short-term disturbances to the
2 dune system and existing vegetation. Walkovers for public access, multi-family and
3 commercial properties shall be posted by the owner with signs containing information
4 including the laws concerning prohibition of disturbing sea turtle nests, prohibitions against
5 disturbing state protected vegetation and dunes, the dates of the sea turtle nesting season
6 (May 1—October 31), the effective dates of applicable lighting restrictions, and
7 referencing the sea turtle ordinance [division 6 of this article]. Signs shall be aesthetically
8 pleasing and no larger than 2.25 square feet.
- 9 c) Replacement of any vegetation destroyed during construction of the walkover with native
10 coastal vegetation suitable for beach and dune stabilization is required. A replanting plan
11 consistent with Section 50-352(b) must be approved by the EMD.
- 12 d) Walkovers constructed over vegetated dunes or over vegetated beach berms shall be
13 elevated above the existing vegetation and dune system. The eastern end of the walkover
14 must be within the conservation zone or no more than 10 feet from the existing toe of dune
15 or line of permanent vegetation. Walkovers should be no more than 6 feet in width.
- 16 e) All walkovers shall be designed to protect the conservation zone, natural areas, and beach
17 habitat from construction impacts and long-term pedestrian impacts.
- 18 f) Walkovers shall be constructed in accordance with FDEP regulations, which mandate the
19 preservation and restoration of the associated dune system.

20 **SECTION 50-351 – Standards for armoring projects.**

- 21 a) Coastal armoring shall conform to FDEP's coastal armoring policy in addition to the
22 following criteria:
- 23 (1) All new and reconstructed armoring projects and emergency repairs must be
24 permitted through the appropriate state and local agencies, and shall comply with
25 this division.
- 26 (2) All coastal armoring permits will be reviewed by the EMD for consistency with
27 the Volusia County Sea Turtle Habitat Conservation Plan (HCP), Incidental Take
28 Permit (ITP), and division 6 of this article.
- 29 (3) All new and reconstructed armoring structures must be buried with an artificial
30 dune at least four feet above the existing grade, at a slope no greater than three to
31 one, and planted with the appropriate native coastal vegetation.

1 (4) All new and reconstructed dune systems shall be maintained by the property
2 owner as long as the armoring structure is in place.

3 (5) The EMD may also allow for, but is not limited to, consideration of the following
4 factors in determining the feasibility of armoring projects: (A) whether a non-
5 armored project affords similar protections of an armored project, (B) impacts of
6 historical accretion of sand along the beach and dune system, (C) historical tidal
7 influence data, and (D) existing natural dune locations. However, in making a
8 feasibility determination, the EMD will not consider cost, obstruction of view, or
9 ease of access as determinative infeasibility factors.

10 (6) *Remuneration in lieu of dune restoration.* If it is determined by the EMD that
11 the artificial dune restoration requirement is not feasible at the project location due
12 to existing beach conditions, the following applies:

13 a. The applicant conducting the dune restoration activity shall, in lieu of
14 actual dune creation, pay a replacement contribution into the Volusia County
15 Dune Restoration Trust Account.

16 b. The replacement contribution will be determined using an engineer's cost
17 estimate of the total cost of the required dune restoration, including placement
18 of sand and native coastal vegetation material and installation costs.

19 b) Seawall construction in the county shall be consistent with FDEP's rules and regulations
20 and shall be of a low-profile design. In addition, all new seawalls shall be designed and
21 constructed to minimize adverse impacts to adjacent properties.

22 c) All water discharge onto the beach or beach approaches, except as previously permitted, is
23 prohibited. This includes stormwater outfalls, pool draining pipes and all other types of
24 water discharge onto the beach.

25 d) New seawalls must be placed at the current line of erosion or in line with adjacent coastal
26 construction, whichever is furthest west.

27 e) It shall be a violation of this ordinance for a property owner to allow a seawall or armoring
28 to be in such disrepair that it is buckling, in danger of collapse, or causes imminent danger
29 to the public on the beach, as determined by the county engineer.
30

1 **SECTION 50-352 – Standards for dune restoration or sand placement projects.**

- 2 a) Each dune restoration project shall be constructed with habitat compatible materials, such
3 as compatible beach sand and plants native to the region and as authorized by FDEP. A
4 dune restoration project will be required in conjunction with the replacement or
5 reconstruction of any seawalls within the county. The threshold of reconstruction requiring
6 a permit will be based on substantial damage as defined in Sec. 50-71.
- 7 b) All associated planting plans must show plant spacing acceptable for the size of the
8 proposed plants and in accordance with county approved planting guidelines, and all sand
9 placed adjacent to the project shall be planted.
- 10 c) Any beach-compatible sand extracted from construction sites on the Volusia County barrier
11 island shall not be removed from the barrier island. Provided appropriate locations are
12 available, excess sand from construction sites adjacent to the beach shall be used solely for
13 dune and beach reconstruction with a valid FDEP permit.
- 14 d) The Volusia County EMD shall determine the compatibility of the sand, including the
15 acceptable degree of debris, based on FDEP standards.
- 16 e) Compatible sand which is to be used for dune and beach reconstruction or renourishment
17 may be stockpiled at the discretion and location designated by the EMD, and must be
18 utilized on the beach.

19 **SECTION 50-353 – Restoration and cleanup.**

- 20 a) *Liability for Damage.* The permittee shall be liable for all damage, injury or loss to persons
21 or property of any character arising from, or resulting from, any act of commission,
22 omission, neglect or misconduct in the performance of work by the permittee, his/her
23 employees or agents. The permittee shall be further liable for all damage, injury or loss to
24 persons or property arising from, or as a result of, defective work or materials.
- 25 b) *Area Outside permitted work area.* Where any work disturbs the area outside the permitted
26 work area, including at the beach access points, the permittee shall ensure that the area is
27 completely restored in a manner acceptable to the county. Dune sand or vegetation that is
28 removed or destroyed shall be replaced by the permittee at his/her expense with equal types
29 and sizes. The county may issue a stop work order to minimize further damage.
- 30 c) *Debris and Waste Removal.* The permittee shall ensure that project site cleanup and
31 property restoration follows construction/installation operations without delay. In order to

1 maintain an acceptable site, debris and waste material shall be removed from the site daily.
2 Site maintenance, along with ongoing cleanup and final property restoration, shall be
3 subject to the direction and approval of the Environmental Management Director.

- 4 d) *Additional Requirements.* Prior to issuance of a permit, the applicant shall provide a one-
5 year performance guarantee at 115% of the project cost as estimated by the applicant's
6 professional engineer or architect and verified by the EMD or LDM as appropriate. Such
7 guarantee shall be in the form of one or more of the following: Certified check; cash
8 deposited in an escrow account; a first mortgage on his/her property; letter of credit; or
9 such other guarantee approved by the county attorney. EMD may waive this requirement
10 in the event of major damage caused by a natural disaster. This does not apply to municipal
11 projects.

12 **SECTION 50-354 – Removal of sand from beach area.**

- 13 a) Any beach-compatible sand either dredged from Ponce DeLeon Inlet or extracted from
14 construction sites on the Volusia County Barrier Island shall not be removed from the
15 barrier island. Provided appropriate locations are available, excess sand from construction
16 sites adjacent to the beach shall be used solely for dune and beach reconstruction with a
17 valid FDEP Permit.
- 18 b) The county shall determine the compatibility of the sand, including the acceptable degree
19 of debris, based on FDEP standards.
- 20 c) Compatible sand which is to be used for dune and beach reconstruction or renourishment
21 may be stockpiled at the discretion and location designated by the county, and must be
22 utilized on the beach.

23 **SECTION 50-355 – SECTION 50-370 – Reserved.**

24
25 **SECTION III:** Division 15, Environmental Standards for Beach and Dune Protection,
26 Article III Land Development Regulations, Chapter 72 Land Planning, Code of Ordinances,
27 County of Volusia, is repealed in its entirety and replaced as follows:

28 **DIVISION 15. – ENVIRONMENTAL STANDARDS FOR BEACH AND DUNE**
29 **PROTECTION**

30 **SECTION 72-1051 – Purpose and intent.**

1 It is the purpose of this regulation to provide certain standards that promote restoration and
2 preservation of the vital beach and dune system along the Atlantic coast of Volusia County,
3 Florida. The intent is to regulate coastal construction activities that affect the beach and dune
4 system and that may degrade its natural processes and functions. All such standards shall meet or
5 be more restrictive than the Florida Department of Environmental Protection (FDEP) standards.

6 **SECTION 72-1052 – Exemptions.**

7 Activities that are exempted from this division include:

- 8 a) Planting native coastal vegetation on property or lots abutting the Atlantic Ocean.
- 9 b) Removal of debris, unpermitted structures or non-functioning coastal armoring.
- 10 c) Mechanical beach cleaning, provided that it conforms to the standards contained in division
11 12 of this article, pertaining to sea turtle protection, if said activity is permitted by FDEP,
12 and does not enter the Conservation Zone or the Natural Beach Management Areas.
- 13 d) Any work performed by the United States Army Corps of Engineers (ACOE), the Florida
14 Inland Navigation District (FIND), the Florida Department of Transportation (FDOT), the
15 Florida Department of Environmental Protection (FDEP), or their designee.
- 16 e) Any maintenance, repair, replacement, improvement or construction activities performed
17 by the county on the beach or on or adjacent to any Volusia County beach approach, as
18 defined in Chapter 20, Beach Code, Volusia County Code of Ordinances.

19 **SECTION 72-1053 – Beach and dune permit.**

20 A permit shall be required for any excavation, erosion control activities, sand placement,
21 dune restoration, armoring, and maintenance, repair, replacement, improvement, or construction
22 activities related to any structure on the beach or beach approach, as defined in Chapter 20, Beach
23 Code, Volusia County Code of Ordinances. An application for a permit shall be submitted with
24 the following information:

- 25 a) *Application forms.* A complete permit application shall be submitted by a property owner
26 or authorized agent of the owner, on the approved application form(s). Submittal of an
27 application is considered express consent for staff to inspect the property as necessary to
28 process the application and determine compliance with ordinance requirements.
- 29 b) *Fees.* Each permit application must be accompanied by the appropriate fee(s) as established
30 by the council. The permit application fees are nonrefundable and nontransferable. Beach

1 access fees are required at all public vehicular approaches in accordance with Chapter 20,
2 Article VI, Division 2, and are not included in the permit application fees.

3 c) Required application data. The application must be accompanied by:

4 (1) Property boundary survey. Property boundaries must be locatable in the
5 field by the inspectors. As a minimum, property boundaries must be located
6 and so designated to be clearly identifiable and visible on-site.

7 (2) A site plan and cross section view showing all proposed work.

8 (3) A completed copy of the appropriate Florida DEP permit, with supporting
9 documents.

10 (4) An issued Joint Coastal Permit (JCP), if applicable, for activities required
11 to get ACOE and FDEP approval, with supporting documents and plans.

12 (5) A copy of a city building permit or development order, if applicable.

13 (6) Dune restoration and maintenance plan, if applicable.

14 (7) Identification of proposed beach access points. Vehicles entering the
15 Conservation Zone or Natural Beach Management Area must obtain Habitat
16 Conservation Plan approval from the Environmental Management Director
17 (EMD) and are responsible for all beach tolls as set forth in Chapter 20
18 Beach Code.

19 (8) A cost estimate for the construction of the entire project, including any
20 planting and dune restoration.

21 (9) Placement and location of any sand extracted during construction and
22 compliance with section 72-1057(a).

23 (10) Other information which the EMD may reasonably require to determine
24 whether to approve the permit.

25 The EMD may waive any of the requirements of the application if, in the opinion of the
26 EMD, such information is found to be unnecessary for a proper evaluation of the proposed
27 work.

28 d) Action on permit application. The Land Development Division shall, within three (3)
29 working days from the filing, determine if the application is complete. If it is determined
30 that the application is incomplete, it shall be returned to the applicant. If the application is
31 determined to be complete, the Land Development Manager (LDM) shall transmit the

1 application and plans to the EMD. The EMD shall have fifteen (15) working days from the
2 date of receipt from the LDM of a complete application to approve or deny the permit.

3 e) Issuance of permits. If the application meets the requirements and standards of this article,
4 the LDM shall issue the permit based upon approval by the EMD, as provided in this
5 division, and may attach such appropriate conditions to the said permit in order to comply
6 with the standards of section 72-1055, 72-1056, and 72-1057 of this article. The EMD may
7 deny the permit if it does not meet such requirements and standards, stating the reasons
8 therefor. The issuance of a permit does not create or vest any property right in the holder
9 of the construction activity, nor does it relieve the permittee from obtaining any other
10 permits that may be required by the appropriate authorities.

11 f) Termination of Permit. All Beach and Dune permits shall expire one year from the date of
12 issue unless time extensions are granted by the EMD. Applications for extensions of time
13 shall be made in writing to the EMD at least 30 days prior to the expiration of the permit.

14 **SECTION 72-1054 – Standards for permit issuance.**

15 In determining whether the project is permittable under the provisions of this article, the
16 EMD shall consider, but not be limited to, the following criteria:

- 17 a) The necessity to conduct such coastal projects for potential benefits versus adverse
18 impacts to the coastal system to include consideration of the feasibility factors contained
19 in section 72-1056(a)(5) for armoring projects.
- 20 b) The degree, if any, of interference or reduction of public access along the beach. There
21 should be no loss or reduction to public access to the beach after construction and the
22 impact to public access during construction must be minimized to the maximum extent
23 practicable.
- 24 c) For armoring projects, the distance (linear feet) of the project from existing adjacent,
25 structurally sound seawall, bulkhead or revetment existing on the effective date of this
26 article to determine if it is located in a predominately natural coastline (PNC) area or a
27 predominately armored (non-PNC) area.
- 28 d) The ability of armoring to achieve the purpose of stabilizing the upland dune system, thus
29 protecting the upland structure from coastal erosion.
- 30 e) The condition and design of armoring on either side of the proposed site.
- 31

1 **SECTION 72-1055 – Standards for beach and dune walkovers.**

2 Beach and dune walkovers may be constructed for the purpose of maintaining or enhancing
3 pedestrian access to the beach and to minimize habitat impact where there is currently no walkover.
4 All applicable state and local permits necessary for construction of beach and dune walkovers must
5 be obtained prior to the start of construction. This section applies to new or reconstructed
6 walkovers. A reconstructed walkover is one which has sustained damage in excess of 50% of its
7 replacement value as determined by the appropriate Building Official. The following standards
8 shall apply:

- 9 a) Walkovers are required at all new public access points and adjacent to all new multi-family
10 dwelling structures, hotel or motel complexes, and other commercial establishments which
11 allow ingress and egress to the beach and lack access to existing walkover structures or
12 ramps.
- 13 b) Walkovers shall be constructed in a manner that minimizes short-term disturbances to the
14 dune system and existing vegetation. Walkovers for public access, multi-family and
15 commercial properties shall be posted by the owner with signs containing information
16 including the laws concerning prohibition of disturbing sea turtle nests, prohibitions against
17 disturbing state protected vegetation and dunes, the dates of the sea turtle nesting season
18 (May 1—October 31), the effective dates of applicable lighting restrictions, and
19 referencing the sea turtle ordinance [division 12 of this article]. Signs shall be aesthetically
20 pleasing and no larger than 2.25 square feet.
- 21 c) Replacement of any vegetation destroyed during construction of the walkover with native
22 coastal vegetation suitable for beach and dune stabilization is required. A replanting plan
23 consistent with Section 72-1057(b) must be approved by the EMD.
- 24 d) Walkovers constructed over vegetated dunes or over vegetated beach berms shall be
25 elevated above the existing vegetation and dune system. The eastern end of the walkover
26 must be within the conservation zone or no more than 10 feet from the existing toe of dune
27 or line of permanent vegetation. Walkovers should be no more than 6 feet in width.
- 28 e) All walkovers shall be designed to protect the conservation zone, natural areas, and beach
29 habitat from construction impacts and long-term pedestrian impacts.
- 30 f) Walkovers shall be constructed in accordance with FDEP regulations, which mandate the

1 preservation and restoration of the associated dune system.

2 **SECTION 72-1056 – Standards for armoring projects.**

3 a) Coastal armoring shall conform to FDEP's coastal armoring policy in addition to the
4 following criteria:

5 (1) All new and reconstructed armoring projects and emergency repairs must be
6 permitted through the appropriate state and local agencies, and shall comply with
7 this division.

8 (2) All coastal armoring permits will be reviewed by the EMD for consistency with
9 the Volusia County Sea Turtle Habitat Conservation Plan (HCP), Incidental Take
10 Permit (ITP), and division 12 of this article.

11 (3) All new and reconstructed armoring structures must be buried with an artificial
12 dune at least four feet above the existing grade, at a slope no greater than three to
13 one, and planted with the appropriate native coastal vegetation.

14 (4) All new and reconstructed dune systems shall be maintained by the property
15 owner as long as the armoring structure is in place.

16 (5) The EMD may also allow for, but is not limited to, consideration of the following
17 factors in determining the feasibility of armoring projects: (A) whether a non-
18 armored project affords similar protections of an armored project, (B) impacts of
19 historical accretion of sand along the beach and dune system, (C) historical tidal
20 influence data, and (D) existing natural dune locations. However, in making a
21 feasibility determination, the EMD will not consider cost, obstruction of view, or
22 ease of access as determinative infeasibility factors.

23 (6) *Remuneration in lieu of dune restoration.* After consideration of the permissible
24 factors contained in this section, 72-1056(a)(5) above, for determining feasibility of
25 a project, if it is determined by the EMD that the artificial dune restoration
26 requirement is not feasible at the project location due to existing beach conditions,
27 the following applies:

28 a. The applicant conducting the dune restoration activity shall, in lieu of
29 actual dune creation, pay a replacement contribution into the Volusia
30 County Dune Restoration Trust Account.

31 b. The replacement contribution will be determined using an engineer's cost

1 estimate of the total cost of the required dune restoration, including
2 placement of sand and native coastal vegetation material and installation
3 costs.

4 b) Seawall construction in the county shall be consistent with FDEP's rules and regulations and
5 shall be of a low-profile design. In addition, all new seawalls shall be designed and
6 constructed to minimize adverse impacts to adjacent properties.

7 c) All water discharge onto the beach or beach approaches, except as previously permitted, is
8 prohibited. This includes stormwater outfalls, pool draining pipes and all other types of water
9 discharge onto the beach.

10 d) New seawalls must be placed at the current line of erosion or in line with adjacent coastal
11 construction, whichever is furthest west.

12 e) It shall be a violation of this ordinance for a property owner to allow a seawall or armoring to
13 be in such disrepair that it is buckling, in danger of collapse, or causes imminent danger to the
14 public on the beach, as determined by the county engineer.

15 **SECTION 72-1057 – Standards for dune restoration or sand placement projects.**

16 a) Each dune restoration project shall be constructed with habitat compatible materials, such
17 as compatible beach sand and plants native to the region and as authorized by FDEP. A
18 dune restoration project will be required in conjunction with the replacement or
19 reconstruction of any seawalls within the county. The threshold of reconstruction requiring
20 a permit will be based on substantial damage as defined in Article 1.

21 b) All associated planting plans must show plant spacing acceptable for the size of the
22 proposed plants and in accordance with county approved planting guidelines, and all sand
23 placed adjacent to the project shall be planted.

24 c) Any beach-compatible sand extracted from construction sites on the Volusia County barrier
25 island shall not be removed from the barrier island. Provided appropriate locations are
26 available, excess sand from construction sites adjacent to the beach shall be used solely for
27 dune and beach reconstruction with a valid FDEP permit.

28 d) The Volusia County EMD shall determine the compatibility of the sand, including the
29 acceptable degree of debris, based on FDEP standards.

30 e) Compatible sand which is to be used for dune and beach reconstruction or renourishment
31 may be stockpiled at the discretion and location designated by the EMD, and must be

utilized on the beach.

SECTION 72-1058 – Restoration and cleanup.

- a) Liability for Damage. The permittee shall be liable for all damage, injury or loss to persons or property of any character arising from, or resulting from, any act of commission, omission, neglect or misconduct in the performance of work by the permittee, his/her employees or agents. The permittee shall be further liable for all damage, injury or loss to persons or property arising from, or as a result of, defective work or materials.
- b) Area Outside permitted work area. Where any work disturbs the area outside the permitted work area, including at the beach access points, the permittee shall ensure that the area is completely restored in a manner acceptable to the county. Dune sand or vegetation that is removed or destroyed shall be replaced by the permittee at his/her expense with equal types and sizes. The county may issue a stop work order to minimize further damage.
- c) Debris and Waste Removal. The permittee shall ensure that project site cleanup and property restoration follows construction/installation operations without delay. In order to maintain an acceptable site, debris and waste material shall be removed from the site daily. Site maintenance, along with ongoing cleanup and final property restoration, shall be subject to the direction and approval of the Environmental Management Director.
- d) Additional Requirements. Prior to issuance of a permit, the applicant shall provide a one-year performance guarantee at 115% of the project cost as estimated by the applicant's professional engineer or architect and verified by the EMD or LDM as appropriate. Such guarantee shall be in the form of one or more of the following: Certified check; cash deposited in an escrow account; a first mortgage on his/her property; letter of credit; or such other guarantee approved by the county attorney. EMD may waive this requirement in the event of major damage caused by a natural disaster.

SECTION 72-1059 – Dune restoration trust account.

- a) Establishment. A Volusia County Dune Restoration Trust Account is hereby established as a depository for dune restoration fees and monies.
- b) Dispersal of assets. The funds in said account shall be expended, utilized and disbursed for the placement of sand, creation of dunes, planting of native dune vegetation, or to cover any other ancillary costs including, but not limited, to items or materials necessary and proper for the preservation, maintenance, relocation or restoration of dune ecosystems on

1 any public land within Volusia County. These monies may also be utilized to engage
2 support elements such as landscape architects and additional personnel, following
3 established county procedures.

- 4 c) All monies deposited for use as specified in Sec.72-1056(a)(5) of this article, shall be
5 deposited in trust, in a separate accounting unit established and maintained apart from the
6 general revenue funds and accounts of Volusia County.

7 **SECTION 72-1060 – Appeals.**

8 The applicant may appeal a determination of the EMD to the Development Review
9 Committee (DRC), in writing, within 30 days of said determination. The DRC may uphold, modify
10 or reverse the determination of the EMD.

11 **SECTION 72-1061 – Jurisdiction.**

12 This division shall apply to the beach and beach approaches, as defined in Chapter 20,
13 Beach Code, Volusia County Code of Ordinances, whether located in incorporated area or
14 unincorporated area of Volusia County. The County will notify a municipality of receipt of a
15 permit application herein of a project within an incorporated area.

16
17 **SECTION 72-1062 – SECTION 72-1095 – Reserved.**

18 **SECTION IV:** Authorizing Inclusion in Code. The provisions of this ordinance shall be
19 included and incorporated into the Code of Ordinances of the County of Volusia, as additions or
20 amendments thereto, and shall be appropriately numbered to conform to the uniform numbering
21 system of the Code.

22 **SECTION V:** Severability. Should any word, phrase, sentence, subsection or section be
23 held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional,
24 then that word, phrase, sentence, subsection or section so held shall be severed from this ordinance
25 and all other words, phrases, sentences, subsections, or sections shall remain in full force and
26 effect.

27 **SECTION VI:** Conflicting Ordinances. All ordinances, or part thereof, in conflict
28 herewith are, to the extent of such conflict, repealed.

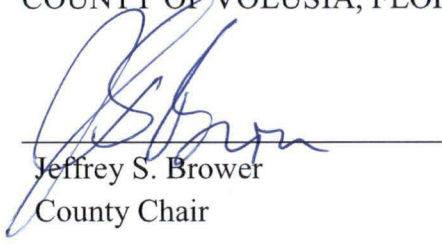
1 **SECTION VII:** Effective Date. This ordinance shall take effect upon filing of a certified
2 copy by e-mail with the Department of State.
3

4 **ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN**
5 **OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT**
6 **THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA**
7 **AVENUE, DELAND, FLORIDA, THIS 22nd DAY OF JUNE A.D., 2021.**

8
9
10 ATTEST:

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA

11
12
13
14 George Recktenwald
15 County Manager


Jeffrey S. Brower
County Chair