

**New Smyrna Beach City Commission Meeting
May 11, 2021**

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City Commissioners voted 5-0 to locate the city's Coastal Construction Setback Line (CCSL) in the same place as the state's Coastal Construction Control Line (CCCL), while adopting what one called "common sense" rules to ensure the change won't penalize property owners.

The Florida Department of Environmental Protection (DEP) administers the state CCCL to protect the coast and be sure homes and other structures don't destabilize or destroy the dune system and associated vegetation. The city's construction setback line has been moved east and west of the state's CCCL a number of times throughout the former's existence.

Mayor Russ Owen summed up the reason for ending that practice and approving a final change to make the city's CCSL mirror the state boundary. "The issue is, I can't tell you why our line is where it is, whereas the DEP line is established by scientific studies."

New Smyrna Beach's CCSL was established in 1975, when it was applied to the area between Crawford Road and Flagler Avenue. In 1985, the City Commission amended CCSL regulations to establish a continuous setback line along the beach between the northern and southern city limits.

Assistant City Manager Brian Fields explained the city and state still would have their own different rules and permit requirements relating to construction requests to build east of the setback. He said 256 properties are affected by the city adopting the state's line along the coast.

"By adopting the DEP line, the new line will be more restrictive for about 176 of those properties. For 76 of those it will be less restrictive, and there are about four for which it is essentially the same," Fields said. "Additionally, when we adopt the DEP line as the city's line, property owners will no longer have the ability to request moving the line by a text amendment (to the city Land Development Regulations, or LDRs), which has been done before at the City Commission. The line would only move if the DEP moved the line, and our line would move right along with it."

Fields said staff members have tried to maintain protections for the dune system and vegetation, while allowing oceanfront property owners flexibility to construct certain types of improvements and structures east of the CCSL.

Dune walkovers, seawalls and fences are examples of what the city already allowed east of the line. What's new in the ordinance, Fields said, is that structures such as a driveway would be allowed on the inland side of an existing building, even if the entire building was located east of the new CCSL line.

Also, Fields explained that homeowners would be able to build a pool, deck or patio east of the construction boundary as long as it didn't extend farther east than the eastern side of the existing main building on the lot. Such improvements would only require a building permit, and wouldn't have to be approved by the City Commission.

"The accessory structures can be no higher than the existing primary structure and must meet all LDR requirements," he added.

If a home was destroyed by a storm it could be rebuilt, Fields said, as long as the replacement structure was located no farther east than the prior location of the city's CCSL and the site of the previously damaged building ... at the time the storm damage occurred.

The ordinance adopted May 11 also established a new CCSL variance that would be decided by the Planning and Zoning Board. That variance would be used in the event development was proposed for a vacant, buildable lot on the beach.

Scott Steger, chairman of the Legislative Committee for an area Board of Realtors, told Commissioners, "I would just like to say, I appreciate the clarification. We feel much more comfortable with the language and with the intent of the Commission, and at this time we are not standing in opposition to this ordinance."

Concurrent with making the city's coastal construction boundary the same as the state's setback line, Commissioners also unanimously voted to repeal a city code regulating seawalls and other coastal armoring structures. The rules were repealed because they were duplicated elsewhere in the Land Development Regulations.

"I think in the long run this is really going to clarify to all those property owners exactly what the rules and regulations are," Commissioner Michael Kolody commented. "And they will see that even if they are a little more east of the line, the staff has written in common sense rules about what can be done in that area."

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