

## ***ARTICLE IV. ENVIRONMENTALLY SENSITIVE LANDS***

### **Sec. 54-81. Short title.**

This article will be known as the "Sarasota County Environmentally Sensitive Lands Protection Ordinance."  
(Ord. No. 99-004, § 1, 1-12-1999)

### **Sec. 54-82. Applicability.**

The provisions of this article will apply in the unincorporated and incorporated areas of Sarasota County, Florida.  
(Ord. No. 99-004, § 2, 1-12-1999)

### **Sec. 54-83. Authority.**

This article is adopted pursuant to the home rule authority of Sarasota County and F.S. chs. 125 and 163, as amended.  
(Ord. No. 99-004, § 3, 1-12-1999)

### **Sec. 54-84. Purposes.**

The purposes of this article are to establish an efficient, fair, voluntary, and economically sound procedure for the Protection of Environmentally Sensitive Lands not currently in public ownership and to limit Protection to those lands which satisfy the ecological criteria set forth in Resolution No. 92-272. This article is nonregulatory and in no way encumbers the development rights of the landowner(s) or presumes to affect the fair market value of any property identified as environmentally sensitive.  
(Ord. No. 99-004, § 4, 1-12-1999)

### **Sec. 54-85. Definitions.**

*Acquisition:* The purchase of a Property Interest for the protection of Environmentally Sensitive Land. Acquisition mechanisms include, but are not limited to, Conservation Easements, rewards, compensation, transfer of development rights, exchanges, Use Reservations and acceptance of gifts of land. Acquisition costs shall include start-up costs, as defined by Board resolution.

*Board:* The Board of County Commissioners of Sarasota County, Florida.

*Conservation Easement:* Restriction(s) of land use granted by the owner of fee title which legally bind present and future owners that are conveyed for less-than-fee interest, normally with the same restriction(s), to a conservation organization, trust or governmental agency, as more fully set forth in F.S. § 704.06, as amended.

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*Cooperative Management Agreement:* A mutually agreeable non-binding management plan approved by the County between government agencies, local governments, groups, or private landowners outlining specific strategies for managing Environmentally Sensitive Lands.

*County:* Sarasota County, Florida.

*County Staff:* Any County employee whose expertise is deemed necessary to implement this Ordinance.

*Due Diligence:* Investigation and review of property prior to Protection, including, without limitation, independently conducted appraisals, title searches and commitments, surveys, environmental assessments, and any other items deemed necessary by County Staff.

*Environmentally Sensitive Lands:* Those lands in Sarasota County that have natural features meeting criteria established in Resolution No. 92-272, by the Board, after a public hearing, that include rarity of species or habitat, connectedness, ecological quality, manageability, and importance to water resources, thereby warranting their Protection in a natural state for the public interest. Also includes lands referenced herein as environmentally sensitive or endangered lands.

*Environmentally Sensitive Lands Oversight Committee (Oversight Committee):* A committee appointed by the Board, pursuant to Resolution No. 92-106, consisting of seven members charged with developing certain ecological criteria to identify Environmentally Sensitive Lands; making recommendations to the Board to identify and rank Environmentally Sensitive Lands; recommending techniques for protecting, preserving, and enhancing environmentally sensitive or endangered lands; and identifying methods of financing land acquisitions.

*Fee Title:* Acquisition of all controlling Property Interests in a parcel of land through the formal conveyance of title.

*Property Interest:* A right, claim, or legal share in land such as lease, easement, Fee Title, water rights, mineral rights, and Use Reservation.

*Protection:* The acquisition of some, or all, rights to real property for the express purpose of the preservation and conservation of Environmentally Sensitive Lands. Mechanisms include, but are not limited to: Conservation Easements, Tax Incentives, rewards, compensation, Transfer of Development Rights, exchanges, Use Reservations, acceptance of gifts of land, donations and acquisition of Property Interests.

*Protection Priority List:* To be developed by the Oversight Committee and County staff. This list will be comprised of the sites that meet the ecological criteria and are owned by those property owners who have provided written approval as described in the Protection Protocol Section herein. These sites will be the Protection priority projects for the County pursuant to this Ordinance.

*Related Person:* An individual who is related to a person as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

*Site Pool:* Sites nominated by the County consultant, general public, public organizations and private conservation organizations.

*Tax Incentives:* A form of tax relief provided to a landowner of Environmentally Sensitive Lands which allows the reassessment of the development value of a property if an easement in perpetuity has been granted for the environmentally sensitive portion(s) of the property.

*Transfer of Development Rights:* A process that provides for the transfer of some, or all, of the development rights of a piece of property to another area which can better accommodate urban development in exchange for the Protection of environmentally sensitive areas within the original parcel of land.

*Use Reservation:* The acquisition of title to land with provisions that allow the present and existing extent of land uses, such as residency, agriculture, grazing or hunting to continue. Use Reservations are typically associated with Conservation Easements.

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*Work Plan:* A plan which sets forth the schedule of pre-protection Due Diligence for the evaluation and Protection of lands identified on the Protection Priority List, including the Protection methods and strategies to achieve the Protection. Plans for environmental inventories and audits, appraisals, funding, land management costs and project start-up costs, as defined by Board resolution, for improvements to the site necessary to achieve its intended functionality, will also be included in the Work Plan, if necessary.

(Ord. No. 99-004, § 5, 1-12-1999; Ord. No. 2013-028, § 2, 9-25-2013; Ord. No. 2014-077, § 2, 11-5-2014)

### **Sec. 54-86. Environmentally Sensitive Lands Oversight Committee.**

An advisory committee may be established by Board Resolution.

(Ord. No. 99-004, § 6, 1-12-1999; Ord. No. 99-054, § A, 7-14-1999; Ord. No. 2007-070, § 2, 8-29-2007)

### **Sec. 54-87. Environmentally Sensitive Lands Protection policies.**

- (a) *Manner of Protection.* The County will protect Environmentally Sensitive Lands in a manner that is consistent with the goals and objectives set forth in this article and the policies of the Sarasota County Comprehensive Plan. Uses of the Environmentally Sensitive Lands protected pursuant to this article will be limited to those activities that are ecologically benign, nonconsumptive and resource-based, except for those uses prescribed within the deeded Use Restrictions.
- (b) *Protection priorities.* The County will restrict its Protection efforts to Environmentally Sensitive Lands, which are those lands that have been evaluated utilizing the ecological criteria specified in Resolution No. 92-272 (Attachment A) and approved for the Protection Priority List, as may be amended from time to time, by the Oversight Committee or the Board.
- (c) *Protection methods.* The County will protect Environmentally Sensitive Lands pursuant to this article only after obtaining voluntary approval of the landowner. Landowners who cannot be contacted for approval will not be placed on the Protection Priority List until a determination of the landowner's willingness to participate can be made. Methods of Protection will include, but not be limited to, Conservation Easements, Tax Incentives, rewards, compensation, Transfer of Development Rights, exchanges, Use Reservations, acceptance of gifts of land, donations, and acquisition of Property Interests.
- (d) *Cooperation with other groups.* The County will work in a cooperative manner with, but not limited to, the following entities in the Protection of Environmentally Sensitive Lands:
  - (1) Private landowners to develop cooperative management plans.
  - (2) Municipalities.
  - (3) Private nonprofit organizations and land trusts.
  - (4) Florida Department of Environmental Protection.
  - (5) Southwest Florida Water Management District.
  - (6) Florida Game and Fresh Water Fish Commission.
  - (7) Department of Community Affairs.
  - (8) Appropriate federal, State and local agencies.
- (e) *Cooperation with profit and nonprofit groups.* The County will cooperate and consult with profit and nonprofit conservation organizations and trusts regarding purchase negotiations with willing sellers, environmental inventories and audits, matching funding, and procedures and processes for the acquisition

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and management of Environmentally Sensitive Lands. In no event shall this article, the authority granted hereunder, or the efforts of any such organization create an agency relationship, express or implied, between the organization and Sarasota County. Sarasota County shall not be bound by any person or entity to approve or complete any transaction involving real property or real Property Interests, as a result of the negotiations or other acts or omissions of such organizations, unless and until approved by formal action of the Board.

- (f) *Matching funding source.* When desirable matching fund opportunities exist, the County will follow and implement Protection procedures for Environmentally Sensitive Lands in accordance with the State of Florida's Conservation and Recreational Lands program, Save Our Rivers program, Florida Communities Trust program, and other matching fund programs to enhance opportunities for securing matching funding from these programs for Protection of Environmentally Sensitive Lands.
- (g) *County offices.* The Property Appraiser and the appropriate County departments shall work in a cooperative manner to implement this article.

(Ord. No. 99-004, § 7, 1-12-1999; Ord. No. 2014-077, § 2, 11-5-2014)

### **Sec. 54-88. Environmentally Sensitive Lands procedure for Protection.**

- (a) *Procedure:* The County's procedure for listing and protecting sites on the Protection Priority List will be as follows:
  - (1) *Site Pool:* County staff will assemble all available resources and identify sites nominated by the County consultant, general public, public organizations and private conservation organizations. There will be no ranking of the sites in the Site Pool; the sites will be listed randomly and not in order of importance. Sites may be added to the Site Pool at any time.
  - (2) *Eligibility:* County staff will apply the ecological selection criteria to determine eligibility. The Oversight Committee will review eligibility "Pool" for approval.
  - (3) *Participation:* County staff will contact the landowners of the Pool sites to introduce the Protection program, determine their willingness to participate in the program and acquire approval if the landowner is a willing participant.
  - (4) *Designation:* County staff will revise the Pool sites to include only those lands for which participants exist, thereby comprising the Protection Priority List, which the Advisory Committee will review for approval. Owner participation may be withdrawn or initiated at any time until a legal agreement for Protection has been fully executed.
  - (5) *Work Plan:* In conjunction with the landowner, County Staff will develop a Work Plan for each site on the Protection Priority List. The Work Plan will include protection methods, strategy to achieve Protection, funding sources and methods, land management strategies and costs, including start-up costs, as defined by Board resolution, for improvements to the site necessary to achieve its intended functionality, and public access. The Work Plan may include environmental inventories, audits, appraisals, and surveys.
  - (6) *Approval:* The Work Plans prepared by County Staff will be submitted to the Oversight Committee for review and recommendation to the Board. The Board may accept, reject or modify the Work Plans.
  - (7) *Contractual Negotiation:* Contractual Negotiation for lands identified on the Protection Priority List will not begin until:
    - a. A Work Plan has been completed and approved by the Board, and
    - b. Required funds are identified.

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(8) *Implementation:* Upon Board approval, County Staff will implement the Work Plans.

- (b) *Annual Evaluation:* The Oversight Committee and County staff will review and update the Protection Priority List annually. Owner willingness and conformance with the criteria will be the basis for changes to the lists. Any changes to the lists must be approved by the Oversight Committee, except for deletions at the landowner's request, which will be deleted immediately by County staff.

(Ord. No. 99-004, § 8, 1-12-1999; Ord. No. 2013-028, § 3, 9-25-2013; Ord. No. 2014-077, § 2, 11-5-2014)

### **Sec. 54-89. Use of protected lands.**

The properties, which meet the criteria set forth in Resolution No. 92-272, that the County acquires fee-simple title over pursuant to this program may serve multiple uses, provided that no use shall negatively impact the native species, habitats or ecological processes of the site.

(Ord. No. 99-004, § 9, 1-12-1999)

### **Sec. 54-90. Disposition of lands.**

In some cases the County may acquire fee-simple title over a portion of a property that is not environmentally sensitive in order to protect a portion of the property that is environmentally sensitive. In this event, that land not considered environmentally sensitive may be utilized for other public purposes (e.g., stormwater retention, rights-of-way, active recreation, buffering, and other public facilities), or declared surplus and offered for sale. In such case where surplus property may be used for purposes other than environmental restoration or buffering, that property, if sold, will be sold for not less than the original acquisition cost with all proceeds being deposited in the fund used for the original purchase.

(Ord. No. 99-004, § 10, 1-12-1999)

### **Sec. 54-91. Buffers.**

No additional buffers shall be required on private property adjacent to sites protected pursuant to this program beyond those that would otherwise be required, pursuant to Apoxsee, the Sarasota County Comprehensive Plan, local land development regulations, or other applicable regulations. Such buffers shall continue to be required. All issues regarding buffering as they relate to land uses anticipated in the Comprehensive Plan need to be resolved prior to closing. The intent of this section is to provide certainty regarding future expectations of the adjacent owners. This shall not be interpreted to suggest that all buffers need to be acquired by the County, but may include options such as, but not limited to, buying less land or changing regulations.

(Ord. No. 99-004, § 11, 1-12-1999)

### **Sec. 54-92. Persons authorized to negotiate, obligation to maintain confidentiality, and public records law.**

- (a) The Board shall by majority vote authorize the appropriate County Staff member(s), Oversight Committee member(s), member(s) of any organization or agent employed by the County to negotiate for the purchase, sale, or exchange of real property, or real Property Interests, on behalf of the County, pursuant to the terms of this article.

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- (b) No member of the Board, or the County Administrator, shall directly negotiate for the purchase, sale, or exchange of real property, or real Property Interests, on behalf of the County, pursuant to the terms of this article, unless authorized to do so by a majority vote of the Board.
  - (c) No person or entity shall be authorized to negotiate on behalf of the County, or otherwise be directly involved in, the purchase, sale or exchange of real property, or real Property Interests, pursuant to the terms of this article, if that person, entity, or a Related Person has a financial interest in the transaction.
  - (d) Except to the extent required under F.S. § 119.07, as amended, no person acting on behalf of the County shall divulge information obtained in their official capacity with respect to any proposed purchase, sale or exchange of real property, or real Property Interests, pursuant to the terms of this article, for the purpose of giving the third party an unfair advantage. Nothing contained in this paragraph shall constitute a waiver by the County of its right to claim exemptions under F.S. § 119.07, as amended. Furthermore, the provisions of F.S. § 125.355, as amended, shall be invoked by the County to maintain the confidentiality of appraisals, offers and counteroffers as allowed by that statute.
  - (e) Persons acting on behalf of the County during the period of active negotiations for real property, or real Property Interests, pursuant to the terms of this article shall provide a written statement verifying that neither they, the entity which they are employed by or otherwise represent, or a Related Person has a financial interest in the proposed transaction and they acknowledge their agreement to maintain the confidentiality of information and documents as described in this article.
  - (f) No contract or agreement negotiated pursuant to the terms of this article for the purchase, sale, transfer or exchange of real property or real Property Interests shall be binding upon Sarasota County unless approved by a vote of a majority of the Board in public meeting.

(Ord. No. 99-004, § 12, 1-12-1999)

### **Sec. 54-93. Conditional repeal.**

Upon approval of the March 9, 1999, referendum whereby the voters of Sarasota County approve an increase in ad valorem taxes of up to 0.25 mill for the acquisition, Protection and management of Environmentally Sensitive Lands, Ordinance No. 94-009 shall be repealed. However, all actions, resolutions, agreements, rules and regulations adopted pursuant to said ordinance remain in full force and effect until changed by the Board. In the event the voters do not approve said referendum, or the tax increase for any other reason is not implemented, Ordinance No. 94-009 shall remain in full force and effect.

(Ord. No. 99-004, § 13, 1-12-1999)

### **Sec. 54-94. Severability.**

The provisions of this article are severable and, if any section, subdivision, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of Ordinance No. 99-054 or Ordinance No. 99-004 shall not be affected by such invalidation.

(Ord. No. 99-004, § 14, 1-12-1999; Ord. No. 99-054, § B, 7-14-1999)

### **Sec. 54-95. Reserved.**

Editor's note(s)—Section 2 of Ord. No. 2007-021, adopted Jan. 24, 2007, deleted § 54-95 which pertained to the sunset date for Art. IV, and derived from Ord. No. 99-004, adopted Jan. 12, 1999. A referendum passed on

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Nov. 8, 2005, expanded the scope and duration of the Environmentally Sensitive Lands Protection Program to the year 2029.

**Secs. 54-96—54-110. Reserved.**