

**CITY OF SANIBEL**

**ORDINANCE NO. 06- 023**

**AN ORDINANCE AMENDING THE SANIBEL CODE, PART II, SUBPART B LAND DEVELOPMENT CODE BY AMENDING CHAPTER 78 GENERAL PROVISIONS, SECTION 78-1 RULES OF CONSTRUCTION AND DEFINITIONS, TO ADD A DEFINITION FOR BEACH CLUB; AMENDING CHAPTER 126 ZONING, ARTICLE II CONDITIONAL USE PERMITS, SECTION 126-35 RECREATION FACILITIES, TO CLARIFY THAT BEACH CLUBS ARE NOT PERMITTED RECREATION FACILITIES AND TO UPDATE THE CONDITIONS FOR RECREATION FACILITIES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, maintaining the carrying capacity of Sanibel beaches is a major issue facing the City and a priority goal for the City Council; and

**WHEREAS**, the City's land use regulations are intended, in part, to preserve the residential character of neighborhoods and control the intensity of use in residential developments, including short-term occupancy developments in the Resort Housing District; and

**WHEREAS**, recreation facilities listed in Land Development Code Section 126-35 does not include beach clubs; and

**WHEREAS**, beach clubs, as defined in this ordinance, have not been expressly permitted by the City of Sanibel since the adoption of the Land Development Code in 1985; and

**WHEREAS**, the City Council deems it important to clarify that beach clubs are not a permitted use; and

**WHEREAS**, a procedure has been established to revise and amend the Land Development Code in a manner consistent with the *Sanibel Plan*; and

**WHEREAS**, such revisions have been referred to the Planning Commission for a recommendation as to the consistency of that Amendment with the *Sanibel Plan*; and

**WHEREAS**, the City Council deems it necessary to make such revisions to the Land Development Code, as contained in this ordinance; and

**WHEREAS**, all required public notices and public hearings for such amendment have been properly given and held.

**NOW, THEREFORE, BE IT ORDAINED** by the Council for the City of Sanibel, Lee County, Florida:

**SECTION 1.** The Code of Ordinances of the City of Sanibel, Chapter 78 General Provisions, Section 78-1 Rules of Construction and Definitions, is hereby amended, with underlining indicating additions, as follows:

**Section 78-1. Rule of Construction and Definitions.**

...

(c) Throughout this Land Development Code, the following words and phrases shall have the meanings indicated unless the text of the article or section in which it is used clearly indicates otherwise:

...

Beach Club means a membership establishment, that provides for private recreational and social activities on a beach in the City of Sanibel or in close proximity to Sanibel beaches to individuals that are not residing overnight at the beachfront property on the day of or the day after the overnight stay. Memberships of any time period, including a day membership or fee for daily use, are included within this definition. The use of lawfully existing and specifically approved common areas of residential developments, which extend into the Gulf Beach Zone, by the residents of that residential development is not a Beach Club. The use of lawfully existing private beach access easements by the residents of properties with existing rights to use that easement is not a Beach Club.

...

**SECTION 2.** The Code of Ordinances of the City of Sanibel, Chapter 126 Zoning, Article II Conditional Use Permits, Section 126-35 Recreation Facilities, is hereby

amended, with underlining indicating additions and ~~strike through~~ indicating deletions, as follows:

**Section 126-35. Recreation Facilities.**

Recreation facilities, are limited to country clubs, private swim clubs, racquetball courts, tennis courts or golf courses, or any combination thereof, ~~shall be permitted as a conditional use subject to the following conditions:~~ Beach Clubs are not permitted as a principal land use. Beach Clubs are not permitted as an accessory or associated use with residential developments, including hotels, motels, inns, timeshare developments and other resort housing developments. However, lawfully existing and specifically approved common areas of residential developments, which extend into the Gulf Beach Zone, that serve only the residents of that development are not Beach Clubs. Lawfully existing private beach access easements that serve the residents of properties with existing rights to use that easement are not Beach Clubs.

Recreation facilities shall be permitted as a conditional use, subject to the following conditions:

- (1) No minimum lot area is required. The lot area shall be sufficient to provide for the necessary use or structure and to comply with the required conditions of this land development code set forth and as determined by the planning commission.
- (2) The setback requirements set forth for the zone in which the parcel is located shall apply except as specifically modified. ~~(5) No building or swimming pool shall be located within 50 feet of any outside parcel line.~~
- ~~(3)~~ 8) No public address system shall be permitted which is audible at any outside parcel line.
- ~~(4)~~ 9) All outdoor lighting ~~proposed~~ shall comply with requirements for outdoor lighting, including requirements for beach front lighting ~~be of a type which directs the light to the ground, and no ambient light shall extend beyond the outside parcel lines.~~

~~(5 10)~~ Access to the parcel in ~~question~~ shall be located so as to minimize the effect of vehicular traffic, during ingress and egress to the facility, so as to minimize the impact on adjoining residential uses and traffic patterns on adjacent streets.

~~(6 7)~~ Where practical and necessary, the planning commission may require vegetative buffering along outside parcel boundaries adjoining residential uses.

(7) Swimming pools specifically.

~~(6)~~ Swimming pools shall be located on the site so that the normal noise generated in their utilization shall have the least impact on adjoining property owners, and shall be effectively buffered by vegetation, so as to limit the transmission of such noise generated to the maximum practical extent.

(8) Golf courses specifically.

a. ~~(11) For golf courses, u~~ Up to 50 percent of the parcel may be cleared of vegetation and used as developed area. The developed area shall include all areas used for structures, putting greens, driving ranges, tees, greens, cart paths, walkways, other areas designed for use for specific activities, sandtraps, new bodies of water, areas of fairways and rough which are actually cleared of vegetation and replanted with grasses, and all similar use areas.

b. ~~(3)~~ In the case of golf courses, care and consideration shall be given to the placement of tees and fairways in order to reduce to a minimum the likelihood of golf balls leaving the subject parcel and posing a danger or creating a nuisance to adjoining land owners, as well as pedestrian and motor vehicle traffic adjacent to the parcel.

(10) Tennis courts specifically

a. ~~(4)~~ Fencing, in connection with the placing of tennis courts, shall be located at least ten feet from any outside parcel line, and

- b. f Fences shall be so placed that they do not restrict or unduly impair the site distance of pedestrian and motor traffic adjacent to the parcel or unreasonably or unduly restrict the view ~~or vista~~ of any adjoining owner with respect to the enjoyment of his property.

**SECTION 3. Codification.**

This ordinance shall be an amendment to the Code of Ordinances of the City of Sanibel. Sections 78-1 and 126-35 of the Sanibel Code of Ordinances are hereby amended.

**SECTION 4. Conflict.**

All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed and the remainder shall have full force and effect and be liberally construed.

**SECTION 5. Severance.**

If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of application hereof.

**SECTION 6. Effective date.**

This ordinance shall take effect immediately upon adoption.

**DULY PASSED AND ENACTED** by the Council of the City of Sanibel, Lee County, Florida, this 2<sup>nd</sup> day of January, 2007.

AUTHENTICATION: Carla Brooks Johnston Pamela Smith  
Carla Brooks Johnston, Mayor Pamela Smith, City Clerk

APPROVED AS TO FORM: Kenneth B. Cuyler 12/7/06  
Kenneth B. Cuyler, City Attorney Date

Publication and Hearing Dates

Chpt 166, F.S. Publication Date: December 08, 2006  
Date of First Public Hearing: December 19, 2006  
Chpt. 166, F.S. Publication Date: December 27, 2006  
Date of Second Public Hearing: January 02, 2007

Vote of Council Members:

|          |     |
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| Johnston | yea |
| Denham   | yea |
| Brown    | yea |
| Jennings | yea |
| Rothman  | yea |

Date filed with the City Clerk: January 02, 2007