

CITY OF SANIBEL
ORDINANCE 25-015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, AMENDING THE CODE OF ORDINANCES TO ADOPT AN ORDINANCE AMENDING THE CODE OF ORDINANCES TO EXTEND THE DEADLINES TO RE-ESTABLISH A NONCONFORMING USE OR A NONCONFORMING STRUCTURE; AMENDING SUBPART B, LAND DEVELOPMENT CODE; CHAPTER 126, ZONING; ARTICLE V, NONCONFORMANCES, DIVISION 5, STANDARDS FOR BUILDING-BACK (RECONSTRUCTION) OF STRUCTURES SUBSTANTIALLY DAMAGED BY A NATURAL DISASTER, SECTION 126-212, NONCONFORMING STRUCTURES, AND SECTION 126-218, RE-ESTABLISHMENT OF DISCONTINUED OR ABANDONED USE PROHIBITED; FOR THE PURPOSE OF UPDATING THE LAND DEVELOPMENT CODE REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning Commission held a legally and properly advertised public hearing on June 10, 2025, on specific proposed amendments to the Land Development Code; and

WHEREAS, the City allows nonconformances to be reestablished following substantial damage from a natural disaster; and

WHEREAS, the extent of damage throughout southwest Florida following Hurricanes Ian, Helene, and Milton, have resulted in delays for property owners who may wish to reestablish nonconforming uses or nonconforming structures following substantial damage from a disaster; and

WHEREAS, the Sanibel Plan calls for continued evaluation of how redevelopment of existing nonconforming properties can balance property rights with environmental, public safety, and community welfare considerations, while prohibiting the expansion of nonconforming uses; and

WHEREAS, the Planning Commission may recommend to the City Council amendments to regulations of the Land Development Code (LDC), in accordance with the standards set forth in LDC Section 82-241; and

WHEREAS, the Planning Commission found the proposed amendments to the LDC as referenced above to be consistent with the Sanibel Plan and meet the requirements of LDC Section 82-241, and recommended by a vote of 6 to 0 that the City Council adopt said amendments in the form of an ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA:

SECTION 1. The recitals above are true and correct and made a part hereof.

SECTION 2. Sanibel Code of Ordinances, Subpart B. Land Development Code, Chapter 126, is hereby amended with ~~strike through~~ language indicating deletions and underlined language indicating additions as follows:

Chapter 126 – ZONING

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ARTICLE V - NONCONFORMANCES

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DIVISION 5 – STANDARDS FOR BUILDING-BACK (RECONSTRUCTION) OF STRUCTURES SUBSTANTIALLY DAMAGED BY A NATURAL DISASTER

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Sec. 126-212. – Nonconforming structures.

...

- (b) Applications to buildback a nonconforming structure that was destroyed or substantially damaged by accidental fire or other natural and disastrous force must be filed within two years ~~24 months~~ of the date of the destruction or substantial damage to the building that is to be built back. If the declared state of local emergency extends beyond six months, the deadline to make application shall be extended to three years ~~36 months~~. If the declared state of local emergency extends beyond one year, the deadline to make application shall be extended to four years.

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Sec. 126-218. – Re-establishment of discontinued or abandoned use prohibited.

This division shall not permit re-establishment of a use which has been discontinued, vacant, abandoned or not used, within the meaning of division 2 of this article and this division shall not be used to permit reconstruction of a nonconforming structure, unless application for reconstruction has been made within one year after the disaster. If the declared state of local emergency extends beyond six months, the deadline to make application shall be extended to three years after the disaster. If the declared state of local emergency extends beyond one year, the deadline to make application shall be extended to four years after the disaster. A permit must be obtained within six months of an application being made. A development permit to build-back (reconstruct) a structure devoted to a nonconforming use shall be valid pursuant to section 82-361.

SECTION 3. Codification. The City Manager is hereby authorized and directed to indicate these amendments in future City Code publications.

SECTION 4. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same 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 or application hereof.

SECTION 6. Effective date. This Ordinance shall be effective immediately upon adoption.

Attest:

Scotty Lynn Kelly, City Clerk

Mike Miller, Mayor

Approved as to form and legality:

John D. Agnew, City Attorney

Date filed with City Clerk: _____

Vote of Council Members:

Miller _____
Smith _____
DeBruce _____
Henshaw _____
Johnson _____

First Reading: August 19, 2025
Publication Date: August 27, 2025
Second Reading: September 8, 2025