

CITY OF SANIBEL  
ORDINANCE 25-007

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, AMENDING THE CODE OF ORDINANCES TO PROMOTE COMMUNITY RESILIENCY THROUGH AMENDMENTS RELATED TO THE PLACEMENT OF FILL; AMENDING SUBPART B, LAND DEVELOPMENT CODE; CHAPTER 78, GENERAL PROVISIONS; SECTION 78-1, RULES OF CONSTRUCTION AND DEFINITIONS; CHAPTER 82, ADMINISTRATION, ARTICLE IV, DEVELOPMENT PERMITS, DIVISION 2, PROCEDURE, SUBDIVISION I, GENERALLY, SUBSECTION 82-382(e) AND (k), FILING PROCEDURE; CHAPTER 86, DEVELOPMENT STANDARDS, ARTICLE II, SITE PREPARATION, ADDING A NEW SECTION 86-46, USE OF FILL IN DETERMINATION OF DEVELOPED AREA; CHAPTER 94, FLOODS, ARTICLE II, DEFINITIONS, DIVISION 1, GENERAL, SECTION 94-124, DEFINITIONS, AND ARTICLE III, FLOOD-RESISTANT DEVELOPMENT, DIVISION 3, SITE IMPROVEMENTS, UTILITIES, AND LIMITATIONS, SECTION 94-154, LIMITATIONS ON PLACEMENT OF FILL, 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 March 25, 2025, on specific proposed amendments to the Land Development Code; and

**WHEREAS**, the Planning Commission finds the proposed amendment to be consistent with the Sanibel Plan, as it relates to Objective B9 of Section 3.6.2. Future Land Use Element, for continued implementation of innovative land development regulations to achieve objectives of the Plan; and Objective 6 of Section 3.1.1. Hurricane Safety Element, for continued implementation of development regulations that are responsive to the threats posed by flooding; 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 7 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 78, is hereby amended with ~~strike through~~ language indicating deletions and underlined language indicating additions as follows:

**Chapter 78 – GENERAL PROVISIONS**

**Section 78-1. Rules 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 used clearly indicates otherwise:

...

*Developed area* means the area of any lot on which is located any structure, driveway, parking area, loading area, impermeable surface, any surface covered or surfaced with gravel, stone, marble chips, broken or pulverized rock, shells, or other similar material (except border material up to 200 square feet), walkway, recreational facility, or utility installation (except for wastewater absorption fields), or which is used to conduct the principal use to which such lot is put, or which is enclosed by any structure. Developed area also includes the area of any lot on which fill is placed, except for those specific exemptions enumerated in Chapter 86.

...

*Fill* means any natural or artificial material intentionally placed on real property or in open bodies of water, the placement of which results in altering the existing draining pattern, ground contours, or grade elevations of the real property or the bottom elevation of the open body or water. Fill includes, but is not limited to, dirt, sand, shell, stone, mulch, concrete, rubble, plastics, wood chips, vegetation debris, or similar materials, except that normal and or incidental amounts of mulch, compost, or similar organic materials utilized strictly in association with existing landscaping or the installation of individual plants shall not be considered fill, provided that the existing grade elevations and stormwater drainage improvements are not otherwise altered, and provided that these organic materials do not violate any other standards or requirements of this Land Development Code. The foregoing exception shall not apply to soil or other materials placed within planter structures or used to create raised landscape bed areas, which may be considered both fill and developed area as defined herein. See also the definition for "filling" in chapter 126, article IX for the Interior Wetlands Conservation District. Organic material that is lawfully placed to restore scoured land to pre-storm elevations shall not be considered fill.

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*Predevelopment grade* means the elevation of the ~~average crown of the adjacent road or roads, or~~ average natural grade at base of structure. In reference to measuring the height of a structure, predevelopment means the elevation of the average crown of the adjacent road or roads, or average natural grade at base of structure, whichever is higher.

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**SECTION 3.** Sanibel Code of Ordinances, Subpart B. Land Development Code, Chapter 82, is hereby amended with strikethrough language indicating deletions and underlined language indicating additions as follows:

## **Chapter 82 – ADMINISTRATION**

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## **ARTICLE IV. – DEVELOPMENT PERMITS**

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## **DIVISION 2. – PROCEDURE**

## Subdivision I. – Generally

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## Sec. 82-382. Filing procedure.

The developer shall file with the city manager, or his/her designated representative, a complete application for development permit, made upon forms supplied by the city and containing or accompanied by the following:

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- (e) An up-to-date (meaning accurately reflecting present conditions) certified survey of the subject parcel bearing the signature and raised seal of a state registered land surveyor or professional engineer. If the land borders or contains an open body of water, the survey must be dated within six months prior to the date the application is filed. The survey must indicate or comply with the following:

...

- (5) Total square footage of impermeable coverage ~~existing~~ proposed (excluding up to a four-foot-wide roof overhang).  
 (6) Total square footage of developed area/clearance of vegetation ~~existing~~ proposed.

...

- (k) A site development plan indicating or complying with the following:
- (1) Scale must be standard and verifiable.
  - (2) North arrow.
  - (3) Property lines, with dimensions.
  - (4) State department of environmental protection coastal construction control line (if applicable).
  - (5) Abutting road rights-of-way and easements, with dimensions.
  - (6) Proposed structures and existing structures which are to remain on the site, showing elevations of lowest floors.
  - (7) Proposed driveway, parking, loading, and turnaround areas, with dimensions, including any loading docks or platforms, and all other developed areas.
  - (8) Proposed limits of fill.
  - (98) Existing and proposed ground elevations, referenced to North American Vertical Datum (NAVD) of 1988, or current reference datum as used for floodplain management purposes.
  - (109) Total square footage of lot.
  - (1140) Total square footage of impermeable coverage proposed (excluding up to a four-foot-wide roof overhang).
  - (1244) Total square footage of developed area/clearance of vegetation proposed.
  - (1342) All existing and proposed utility structures and lines, such as, but not limited to, telephone lines, electric lines, water lines, sewer lines, gas lines, cable television lines, and fire hydrants, with locations and dimensions.
  - (1443) All proposed easements.
  - (1544) All means of vehicular access to adjoining streets.
  - (1645) Any necessary improvements to adjoining streets, including acceleration and deceleration lanes, paving, traffic control markings, and land dedication for street purposes.

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**SECTION 4.** Sanibel Code of Ordinances, Subpart B. Land Development Code, Chapter 86, is hereby amended with strikethrough language indicating deletions and underlined language indicating additions as follows:

## **Chapter 86 – DEVELOPMENT STANDARDS**

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### **ARTICLE II. – SITE PREPARATION**

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#### **Sec. 86-46. – Use of fill in determination of developed area.**

- (a) Purpose. It is necessary to limit the placement of fill in order to protect the natural and beneficial functions of the floodplain and to protect native vegetation, wetlands and other natural habitats, drainage, and water quality. It is recognized that the use of fill to elevate buildings has advantages that make it desirable for developers and homeowners. However, using fill for purposes other than stormwater management, has adverse impacts to neighboring properties and the overall community that make it necessary to put limits on its placement.
- (b) Recognizing the benefits of using fill for drainage under and around structures, it is deemed desirable to exempt areas of fill used for these purposes from the calculation of developed area. All fill shall count towards the developed area limitations except that the following shall be exempted:
- (1) Fill utilized for the creation of stormwater management berms in conjunction with an approved drainage plan will be excluded in the calculation of developed area.
  - (2) Fill used for elevating a principal building for a distance of up to six linear feet from the foundation of the building, placed in accordance with the requirements of the Floodplain Management Ordinance, will be excluded in the calculation of developed area.

#### **Secs. 86-4645—86-70. - Reserved.**

**SECTION 5.** Sanibel Code of Ordinances, Subpart B. Land Development Code, Chapter 94, is hereby amended with strikethrough language indicating deletions and underlined language indicating additions as follows:

## **Chapter 94 – FLOODS**

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### **ARTICLE II. – DEFINITONS**

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## DIVISION 1. – GENERAL

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### Sec. 94-124. – Definitions.

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Fill. Fill has the meaning as described in Chapter 78 – General Provisions of this Land Development Code.

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## ARTICLE III. – FLOOD-RESISTANT DEVELOPMENT

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## DIVISION 3. – SITE IMPROVEMENTS, UTILITIES, AND LIMITATIONS

### Sec. 94-154. Limitations on placement of fill.

- (a) Design. Subject to the limitations of this chapter, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.
- (b) Construction. For all properties located within the Special Flood Hazard Area outside of the Coastal High Hazard Area and Coastal A Zones, the following shall apply:
- (1) For **construction of buildings** utilizing slab-on-grade construction, up to 24 inches of compacted fill may be allowed above the predevelopment grade of the subject property for the footprint of the proposed development.
  - (2) For **construction of buildings** utilizing stem-wall or mono-slab foundation construction, fill is limited to the compacted amount necessary inside the perimeter of the foundation to achieve a solid subsurface to pour a concrete slab to **or above the elevation required by the Florida Building Code.**
  - (3) Fill outside the footprint of the proposed development is permissible, subject to the following conditions:
    - a. To elevate driveways and/or walkways or attached patios to the approved elevations shown on the site plan, and
    - b. To provide backfill against the foundation of the structure, no more than 24 inches in depth, for a distance of 6 linear feet, and sloped 3 to 1 away from the foundation to achieve positive drainage.
  - (4) All development must provide on-site retention of stormwater runoff on the parcel being developed consistent with chapter 118, article IV of this Land Development

Code.

**SECTION 6.** Codification. The City Manager is hereby authorized and directed to indicate these amendments in future City Code publications.

**SECTION 7.** 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 8.** 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 9.** Effective date. This Ordinance shall be effective immediately upon adoption.

**FIRST READING THE 17TH DAY OF APRIL 2025.**

**ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA THIS 6TH DAY OF MAY 2025.**

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: April 17, 2025  
Publication Date: April 25, 2025  
Second Reading: May 6, 2025