



AGENDA MEMORANDUM
Planning Department

City Council Meeting Date June 2, 2026

To: City Council
From: Paula N. C. McMichael, AICP, Planning Director
Date: May 14, 2026

SUBJECT: LIMITED EXCEPTION FOR HEIGHT – ELEVATING A NONCONFORMING STRUCTURE - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, AMENDING THE CODE OF ORDINANCES SUBPART B LAND DEVELOPMENT CODE, CHAPTER 126, ZONING, ARTICLE V, NONCONFORMANCES DIVISION 3, STRUCTURES, SECTION 126-172, (NONCONFORMING STRUCTURES) IMPROVEMENT, RECONSTRUCTION, OR RELOCATION PROHIBITED; EXCEPTIONS; AND DIVISION 5, STANDARDS FOR BUILDING-BACK (RECONSTRUCTION) OF STRUCTURES SUBSTANTIALLY DAMAGED BY A NATURAL DISASTER, SECTION 126-212, NONCONFORMING STRUCTURES, TO ALLOW A LIMITED EXCEPTION TO HEIGHT LIMITATIONS FOR ELEVATION OF EXISTING STRUCTURES; FOR THE PURPOSE OF UPDATING THE LAND DEVELOPMENT CODE REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

BACKGROUND:

Date	Meeting Type	Summary
02/24/2026	LDC Review Subcommittee	Proposed amendment for discussion, forwarded to Planning Commission 7-0
3/24/2026	Planning Commission	Recommend approval of draft resolution 7-0
05/06/2026	City Council	Discussion and first reading
06/02/2026	City Council	Second reading

The Land Development Code regulates height in residential districts in two ways: (1) overall height and (2) angle of light. Following Hurricane Ian, height standards in all residential districts were amended via Ordinance 23-025, effectively increasing allowable building height. Properties undertaking new construction or redevelopment must comply with these updated standards.

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Last year, Ordinance 25-005 was adopted to address the reconstruction of structures substantially damaged by a natural disaster, in accordance with floodplain management standards set forth in Chapter 126, Article V, Division 5 – Standards for Building Back (Reconstruction) of Structures Substantially Damaged by a Natural Disaster. Section 126-212(5) provides:

- a. When reconstruction or elevation of a nonconforming structure to comply with minimum flood elevation requirements does not conform or increases the degree of nonconformity with applicable height standards; or
- b. For the purpose of resiliency from potential future storm surge, the height of the lowest habitable floor of a nonconforming structure may be elevated up to ten feet above existing grade and exceed applicable height limitations proportionally, including any angle of light restrictions.

At the February 24, 2026, LDC Review Sub-Committee meeting, staff explained that homeowners are pursuing permits to elevate ground level homes that were not substantially damaged by a natural disaster but wish to elevate for resiliency purposes and to comply with FEMA regulations and the Florida Building Code. Some of these structures are proposed to be elevated above the required flood elevation, which may result in nonconformance with applicable height standards, including angle-of-light requirements.

Staff recommended allowing up to ten (10) feet above grade for nonconforming structures, even where ten feet above grade exceeds the required design flood elevation, and allowing height limitations to be exceeded proportionally, including angle-of-light requirements. Staff finds that allowing these elevations furthers the City’s resiliency goals, provided that the elevation achieves the required FEMA flood elevation and complies with the Florida Building Code.

Planning Commission recommended approval of the proposed ordinance 7-0 at their meeting of March 24, 2026.

Staff revised the wording reviewed by the Planning Commission from “10 feet above predevelopment grade” to “10 feet above predevelopment grade or highest adjacent grade, whichever is higher.” Both terms are defined in the land development code:

Sec. 78-1:

Predevelopment grade means the elevation of the 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.

Sec. 94-124:

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

City Council approved minor rewording at discussion on May 6 to remove the word “proportionally.”

PROPOSAL: Amend Section 126-172 – (Nonconforming structures) improvement, reconstruction or relocation prohibited; exceptions, and Section 126-212 – Nonconforming structures, to allow for ground level homes to elevate up to ten feet above grade without regard to height limitations, for purposes of resiliency in the event of floods, as recommended by Planning Commission.

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FUNDING SOURCE: N/A

RECOMMENDED ACTION: City Council approval of Ordinance 26-09.

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