



AGENDA MEMORANDUM

Planning Department

City Council
Meeting Date: August 19, 2025

To: City Council
From: Paula McMichael, AICP, Planning Director
Date: August 12, 2025

SUBJECT: Ordinance 25-015 to extend the deadline to re-establish (“build-back”) nonconforming uses & structures

REVIEW TIMELINE

Date	Meeting Type	Summary
05/06/25	City Council	Reviewed options for re-establishing nonconforming uses and structures and advised staff to draft an ordinance to extend the deadline
6/10/25	Planning Commission	Considered draft ordinance and recommended approval 6-0
7/30/25	City Council	Discussion and then first reading of Ordinance 25-015

OVERVIEW OF “BUILD BACK” PROVISIONS FOR NONCONFORMING USES AND STRUCTURES

Nonconforming *uses* are those that were lawful when established but are no longer permitted within the zone in which they are located. (example: a commercial use in a residentially zoned area).

Nonconforming *structures* are those that were lawful when constructed but no longer comply with required development standards (such as the required setbacks or maximum impermeable coverage).

A nonconforming use may be located in a nonconforming structure.

It is the stated intent of the code “to permit these nonconformities to continue until they are eventually removed, but ... not to require them to be removed as a result of a disaster ...” (Sec. 126-131).

The code currently allows nonconforming uses and structures to be re-established (“built back”) if destroyed by a natural disaster and provides a deadline of three (3) years if the state of local emergency exceeds six (6) months.

Sanibel is and shall remain a barrier island sanctuary

Post Hurricane Ian, staff has calculated the deadline from the time the permit moratorium was lifted on December 15, 2022, rather than the date of the disaster, so the proposed change would extend the deadline from December 15, 2025, to December 15, 2026.

A complete building permit application to re-establish the use or structure must be submitted by the deadline. A building permit expires six (6) months after issuance if there has been no activity or inspections.

Prior to Hurricane Ian, the code allowed 24 months for the re-establishment of a nonconforming structure and 12 months for the re-establishment of a nonconforming use. The deadline for a nonconforming use was extended to 24 months if the state of local emergency exceeds six (6) months via Ordinance 23-020 adopted September 11, 2023, and the deadlines for both structures and uses were extended to 36 months if the state of local emergency exceeds six (6) months via Ordinance 24-016 adopted September 9, 2024.

SUMMARY OF DRAFT ORDINANCE

The ordinance amends two sections of code to extend the deadline to re-establish nonconforming structures and uses to four years, should the state of local emergency extend beyond one year. The limitation “beyond one year” rather than “beyond six months” for the four year deadline was added to restrict the availability of the extension to major disasters and to reduce potential unintended consequences of an extended deadline.

RECOMMENDED ACTION:

Move to second reading on September 8, 2025.

PUBLIC COMMENT: No public comments have been received on the draft ordinance.

FISCAL IMPACT: None.