



AGENDA MEMORANDUM

Planning Department

City Council
Meeting Date: April 1, 2025

To: City Council
From: Paula McMichael, AICP, Planning Director
Date: March 25, 2025

SUBJECT: Discussion of an ordinance 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 1, Generally, Subsection 82-382(e) and (k), Filing Procedure; Chapter 86, Development Standards, Article II, Site Preparation, Adding a New Section 86-45, 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.

REVIEW TIMELINE

Date	Meeting Type	Summary
12/10/2024	Planning Commission	Adopted as a priority for 2025
2/18/2025	Joint Workshop	Discussion; referred back to Planning Commission
3/4/2025	Planning Commission	Discussion; recommended to bring back for ordinance language
3/25/2025	Planning Commission	Approval of a resolution recommending adoption of Ordinance to City Council

BACKGROUND: At the Planning Commission meeting of November 19, 2024, staff presented a preliminary list of potential amendments to the Sanibel Code for consideration in 2025. At that meeting, Commissioner Colter asked that a discussion regarding how fill is regulated and included in calculating developed area be included in that list, citing a concern that garages on

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some newly constructed homes were “going under water.” Planning Commission approved the list of priority amendments for 2025 at their meeting of December 10, 2025. City Council expressed concern at their meeting of January 14, 2025, that the issue be resolved as quickly as possible. Staff met with members of the building community on January 17, 2025, to better understand the issue from their perspective, and the item was scheduled for discussion at the joint workshop between City Council and Planning Commission on February 18, 2025. At the workshop, the item was sent back to the Planning Commission to develop an appropriate code amendment to address the issue.

Placement of fill is regulated by the City of Sanibel as it impacts stormwater management and drainage, and through drainage, impacts water quality; relates to preservation of native vegetation and wildlife habitat and the sanctuary quality of the island; and is required by the city’s participation in the National Flood Insurance Program (NFIP). The City also participates in the Community Rating System, which is a voluntary incentive program that recognizes communities that exceed the minimum requirements of the NFIP. The City’s rating of 5 earns residents a 25% discount on flood insurance premiums. The placement of fill is also regulated by the Florida Building Code to promote flood-resistant construction.

The amendment will change the existing policy, which is based on “predevelopment grade,” to allow up to 24 inches of fill around the house and above the average grade of the lot. This fill would not count towards developed area. If additional fill is desired, it can be permitted through mono slab or stem wall construction, which limits the additional fill to the footprint of the house. It also creates a specific exemption that fill utilized in the creation of stormwater management berms does not count towards developed area calculations.

Benefits

The proposed amendments will resolve the concern that the current policy could result in some garages being more susceptible to flooding, bring the code more in compliance with the Florida Building Code, and be consistent with federal floodplain management policy. These benefits are in compliance with City Council’s strategic goal of “Community Resiliency.”

Compliance with Florida Statutes (SB 250)

The proposed amendment provides for more flexibility in administering the limitation on fill and clarifies how fill is calculated towards developed area limitations. The Florida Building Code also limits fill to no more than 24”. Staff finds the proposed amendment to be more permissive and not more restrictive than the existing policy.

PUBLIC COMMENT: Commissioner Steiner provided one public comment as part of public concerns related to fill at the March 4, 2025, Planning Commission meeting. The letter from a resident was specific to one property and is the subject of an appeal that will be heard by the Planning Commission at their April 8, 2025, meeting. The same resident spoke at the March 25, 2025, Planning Commission meeting, to support the Planning Commission’s decision to remove language from the draft ordinance that would have allowed staff the ability to approve more than 24” of fill if needed to accomplish the intended purpose.

FISCAL IMPACT: None.

RECOMMENDED ACTION: Move the draft ordinance to first reading on May 6, 2025.

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Related code sections & definitions (not proposed for amendment):

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 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.

Development means the carrying out of any building or mining operation or the making of any material change in the use or appearance of any structure or land and the dividing of land into two or more parcels and as further described in section 78-9.

Sec. 78-9. – Activities constituting development.

The following activities or uses shall be taken, for the purposes of this Land Development Code, to involve development as defined in this section: ...

(8) Clearing of land as an adjunct of construction or other development.

(9) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

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.

Sec. 86-35. – Use of fill; disposal of excess soil.

Development activities shall be designed to minimize the amount of fill used in preparation of the site. Soil and other materials shall not be temporarily nor permanently stored in locations which would result in the unnecessary destruction of vegetation. Excess soil, or other material, including dredged spoil, to be disposed of off-site, shall be deposited at specified locations in a manner causing minimal environmental damage.

Sec. 86-36. Removal of vegetation.

The removal of vegetation shall be limited to the minimum necessary to carry out development activity, except as required by other provisions of the Land Development Code. ...

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