



AGENDA MEMORANDUM

Planning Department

City Council Meeting Date: May 6, 2025

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

SUBJECT: 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
4/1/2025	City Council	Discussion of draft ordinance
4/17/2025	City Council	Discussion of draft ordinance and first reading

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

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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 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. Planning Commission reviewed the draft amendment on March 25, 2025, and unanimously recommended approval to City Council.

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.

City Council reviewed the draft legislation on April 1, 2025, and after discussion recommended the following changes:

- Amend the definition of fill in Section 78-1 to change an existing exception to read “except that normal or incidental amounts of [fill]” instead of “and.”
- Amend the definition of fill in Section 78-1 to add a sentence that specifically excludes organic material used to restore a lot to pre-storm grade. This is current practice by the Planning Department.
- Add language that stormwater runoff must be retained “on the parcel being developed.”

Further discussion by City Council on April 17, 2025, amended the language in the definition of fill to include the words “lawfully placed” rather than “permitted to be placed” to alert property owners that a permit to place fill may be required, but to avoid the inference that it is always required.

The changes to Chapter 94 in the draft ordinance were provided to the Office of Floodplain Management at the Florida Division of Emergency Management after the first discussion by city council on April 4, 2025, and comments were received on April 25, 2025. The reviewers from FDEM requested revisions to Section 94-154:

- Under subsection (1), to avoid the use of the more general term “development” and clarify instead “construction of buildings.”

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- Under subsection (2), to reference the elevation as required by the Florida Building Code, rather than using the term “design flood elevation.”

These changes are provided for council consideration in a separate draft ordinance.

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. No public comment has been received following the April 1, 2025, city council meeting.

First Reading of this ordinance occurred on April 17, 2025.

FISCAL IMPACT: None.

RECOMMENDED ACTION: Adopt Ordinance 25-07 at Second Reading.