



City of Sanibel

Planning Commission

Planning Department Agenda Memorandum

Planning Commission Meeting Date: June 10, 2025

To: Planning Commission

From: Paula McMichael, AICP, Planning Director

Date: May 30, 2025

SUBJECT: Extend the deadline to re-establish nonconforming uses & structures

Consideration of a recommendation to City Council for an ordinance amending the Code of Ordinances to extend the deadline from 36 months to 4 years for reestablishing a nonconforming use or nonconforming structure following a natural disaster, amending Subpart B Land Development Code, Chapter 126 – Zoning, Article V. – Nonconformances, Division 5. – Standards for Building-back (Reconstruction) of Structures Substantially Damaged by a Natural Disaster, Sec. 126-212. Nonconforming structures, and Sec. 126-218. Re-establishment of discontinued or abandoned use prohibited, for the purpose of land development code regulations.

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

Prior to Hurricane Ian, the deadline for re-establishing a nonconforming use post-disaster was 12 months from the date of the disaster. Ordinance 23-020, adopted September 11, 2023, extended the deadline to 24 months where a state of local emergency exists beyond 6 months. Ordinance 24-016, adopted September 9, 2024, extended the deadline to 36 months where a state of local emergency exists beyond 6 months. The proposed change would extend the deadline to 4 years. Staff proposes that the extension to 4 years from the date of a disaster would only be available if the state of local emergency exists beyond 12 months. The city has extended the state of local emergency weekly via mayoral proclamation continuously since Ian. Hurricane Helene was added following its impacts on September 26, 2024, and Hurricane Milton was added following its impacts on October 9, 2024.

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.

BACKGROUND

A nonconforming use is defined as “a lawfully-established use located in a zone district restricted against such use.” Examples of nonconforming uses that are subject to the deadline are:

- VIP Cottage (formerly) - 2000 Periwinkle Way (commercial use not in a commercial district)
- John Gee Realty - 2807 West Gulf Drive (commercial use not in a commercial district)
- Sandbar Restaurant - 2761 West Gulf Drive (commercial use not in a commercial district)
- The Mad Hatter Restaurant – 6467 Sanibel Captiva Road (commercial use not in a commercial district – development in the Gulf Beach preservation district)

A nonconforming structure “means a lawfully-constructed building or structure which does not conform to the minimum or maximum requirements for such structure in the zone district in which it is located, including any structure located within a required setback or on a lot or parcel which is developed in excess of permitted impermeable surface coverage, developed area, residential density, or commercial floor area.” Many commercial buildings constructed prior to incorporation of the city are nonconforming structures. Examples of nonconforming structures:

- Chevron Station – 1067 Bailey Road
- Lazy Flamingo (east end) – 1036 Periwinkle Way
- Lazy Flamingo/Sunset Grille – 6520 Pine Avenue
- Duplexes not in conformance with density – various locations

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approve the resolution to recommend that council extend the deadlines to re-establish nonconforming uses and structures.