

**CITY OF SANIBEL
ORDINANCE 23-024**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, TO AMEND THE CODE OF ORDINANCES TO UPDATE RESORT HOUSING DEVELOPMENT REGULATIONS, AMENDING CHAPTER 126, ZONING, ARTICLE XII, RESORT HOUSING DISTRICT, SECTION 126-637, RESORT HOUSING DEVELOPMENT REGULATIONS, FOR THE PURPOSE OF UPDATING LAND DEVELOPMENT CODE REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, many properties within the Resort Housing District sustained substantial damage or were destroyed by Hurricane Ian; and

WHEREAS, property owners must determine whether they will buildback under the standards for nonconforming uses and structures destroyed or substantially damaged by a natural disaster or rebuild following the redevelopment standards for the Resort Housing District; and

WHEREAS, City Council directed staff to review the existing Resort Housing District development standards to ensure these standards are understandable and achievable to foster the recovery from Hurricane Ian; and

WHEREAS, the Planning Commission held a legally and properly advertised public hearing on December 13, 2022, on specific proposed amendments to the Land Development Code, which included proposed liberalization of the allowable uses for interior areas of certain sloped roofs within the Resort Housing District, regulated by LDC Section 126-637; and

WHEREAS, the Planning Commission heard and considered comments and recommendations from the Planning Department Staff and public; and

WHEREAS, the Planning Commission may recommend to the City Council amendments to regulations of the Land Development Code (LDC), in accordance with the standards set forth in LDC Section 82-241; and

WHEREAS, the Planning Commission found the proposed amendments to the LDC as referenced above to be consistent with the Sanibel Plan and meet the requirements of LDC Section 82-241, and recommended by a vote of 7 to 0 that the City Council adopt said amendments in the form of an ordinance; and

WHEREAS, City Council reviewed and approved those amendments at a hearing on February 7, 2023, by a vote of 5-0; and,

WHEREAS, consistent with the Planning Commission's prior recommendation to liberalize the allowable uses for interior areas of certain sloped roofs within the Resort Housing District, regulated by LDC Section 126-637, staff recommends a further clarification to allow interior areas within a pitched roof to be used for additional interior ceiling height.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA:

SECTION 1. The recitals above are true and correct and made a part hereof.

SECTION 2. Sanibel Code of Ordinances, Subpart B. Land Development Code, is hereby amended with ~~striketrough~~ language indicating deletions and underlined language indicating additions as follows:

CHAPTER 126. – ZONING

...

ARTICLE XII. – RESORT HOUSING DISTRICT

...

Sec. 126-637. - Development and redevelopment regulations.

...

- (b) This subsection implements a redevelopment strategy that requires the protection and restoration of the beach and dune system while providing standards for the retention of resort housing units (hotel, motel, and resort condominium units) as part of the city's housing stock. The following requirements shall apply to all lands within the Resort Housing District:

...

(3) Height limits for buildings.

- a. The height of new and substantially improved buildings will not exceed three stories above the base flood elevation, except that buildings replacing condominiums substantially damaged or destroyed by a natural disaster may exceed the height of the building immediately prior to the disaster by up to one story if the building must be elevated above the ground level to comply with the flood ordinance and prohibiting the additional height would result in the loss of a dwelling unit by its owner. This limitation is established by Policy 1.1 in the Scenic Preservation Element (Section 3.2.5) of the Sanibel Plan.
- b. The maximum height of buildings, other than the exception provided in subsection (b)(3)a., shall not exceed 33 feet above the base flood elevation of the FEMA Flood Insurance Rate Map (FIRM) or the Florida Building Code for buildings located seaward of the state's 1991 Coastal Construction Control Line (CCCL), whichever is higher. However, no building in the Resort Housing District can exceed a height greater than 49.8 feet NAVD (or 51 feet NGVD).
- c. A permitted exception to the maximum height limitation is provided solely for the mandatory pitched roof required on multifamily buildings designed with three habitable floors or stories above the base flood elevation.

The maximum height of the required sloped roof shall not exceed a height greater than 58.1 feet NAVD or 8.3 feet above the established maximum building height of 49.8 feet NAVD.

The interior areas of roofs exceeding the height limit for buildings in the Resort Housing District may be used for additional ceiling height but shall not be used

for additional habitable floors or stories beyond the three permitted by this subsection space.

SECTION 3. Codification. The City Manager is hereby authorized and directed to indicate these amendments in future City Code publications.

SECTION 4. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed, and the remainder shall have full force and effect and be liberally construed.

SECTION 5. Severance. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

SECTION 6. Effective date. This Ordinance shall be effective immediately upon adoption.

FIRST READING THE 3RD DAY OF OCTOBER 2023.

SCHEDULED FOR SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA THE 7TH DAY OF NOVEMBER 2023.

Attest:

Scotty Lynn Kelly, City Clerk

Richard Johnson, Mayor

Approved as to form and legality:

John D. Agnew, City Attorney

Date filed with City Clerk: _____

Vote of Council Members:

Johnson _____
Miller _____
Crater _____
Henshaw _____
Smith _____

First Reading: October 3, 2023

Publication Date: _____

Second Reading: _____