

ORDINANCE 23-002

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL TO AMEND CHAPTER 14, BUILDING AND BUILDING REGULATIONS, OF THE CODE OF ORDINANCES OF THE CITY OF SANIBEL; ARTICLE IV, PERMITS, SECTION 14-188, FEE SCHEDULE, BY ADDING NEW SUBSECTIONS (13) AND (14) RELATING TO BUILDING PERMIT DISCOUNTS AND FEE WAIVERS IN CERTAIN INSTANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is in the best interests of the citizens of Sanibel that the City establish and maintain building permit fees at amounts generally equivalent to the cost of providing Building Permit and Building Department services including, but not limited to, permit application reviews, building inspection services, code review and regulation, administration, and similar services; and

WHEREAS, Section 553.791, Florida Statutes, "Alternative Plans Review and Inspection", requires local jurisdictions to reduce the cost of the jurisdictions permit fee should a property owner or a contractor retain the services of a private provider to perform plans review or building inspection services for a permit; and

WHEREAS, Section 553.791, Florida Statutes, defines a private provider as a person licensed as a building code administrator under Part XII of Chapter 468, Florida Statutes, as an engineer under Chapter 471, Florida Statutes, or as an architect under Chapter 481, Florida Statutes, for purposes of performing inspections for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term "private provider" also includes a person who holds a standard certificate under Part XII of Chapter 468, Florida Statutes; and

WHEREAS, Section 553.791, Florida Statutes, allows for a local jurisdiction's permit fees to a property owner or contractor that retains the services of a private provider to perform plans review or building inspection services for a permit by a flat fee, percentage basis, or any other reasonable means by which a local enforcement agency assesses the cost for its plans review or inspection services; and

WHEREAS, the City's Building Department still incurs costs for administrative services on projects where private providers are utilized as an alternative to City services; and

WHEREAS, discounting permit fees by fifteen percent (15%) to a property owner or contractor that retains the services of a private provider is consistent with the requirements of Section 553.791, Florida Statutes, and allows the City to recover administrative costs related to plan review and inspection services completed by a private provider; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall in Sanibel and other parts of Lee County as a Category 4 hurricane, causing catastrophic property damage and loss of life; and

WHEREAS, damages directly impacting the City of Sanibel include widespread damage and destruction of infrastructure, public property, and private property; and

WHEREAS, on September 26, 2022, the City Council of the City of Sanibel passed Resolution No. 22-054, declaring a State of Local Emergency, based upon the severe threat to the health, safety, and welfare of the City posed by Hurricane Ian; and

WHEREAS, the City Council Resolution No. 22-054 declared an initial State of Local Emergency for a 7-day term, which State of Local Emergency has been extended continuously by Mayoral Proclamations since the initial issuance; and

WHEREAS, on November 11, 2022, after holding a public hearing, the City Council approved Emergency Ordinance 22-011 to allow the temporary placement of recreational vehicle or park trailers on residential lots to provide residents with a temporary housing option while their homes were being repaired; and

WHEREAS, on December 6, 2022, the City Council asked that the Building Demolition fee of \$53.25 be waived for a period of six months, retroactively to November 7, 2022, and to be temporarily made effective by Mayoral Proclamation while staff prepared proposed amendments to the Code of Ordinances; and

WHEREAS, the proposed amendment to the Code of Ordinances will allow City Council to waive fees by resolution or mayoral proclamation following a natural or man-made disaster.

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. That Chapter 14, Buildings and Building Regulations, Article IV, Permits, Section 14-188, Fee Schedule, is hereby amended to read as follows, with additions indicated by underlining and deletions indicated by ~~strike through~~:

Chapter 14 – BUILDINGS AND BUILDING REGULATIONS

ARTICLE IV. – PERMITS

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Sec. 14-188. Fee schedule.

The following schedule shall constitute the schedule of fees under this chapter:

...

(13) Any project that uses the services of a private provider will receive a fifteen percent (15%) discount for all associated building permit fees.

(14) Fee waivers. Fees in this section may be waived for a specific period of time by mayoral proclamation or city council resolution following a natural or man-made disaster.

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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.

APPROVED AT FIRST READING THE 17TH DAY OF JANUARY 2023.

ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA THIS 7TH DAY OF FEBRUARY 2023.

Attest:

Scotty Lynn Kelly, City Clerk

Holly D. Smith, Mayor

Approved as to form and legality:

John D. Agnew, City Attorney

Date filed with City Clerk: _____

Vote of Council Members:

| | |
|---------|-------|
| Smith | _____ |
| Johnson | _____ |
| Crater | _____ |
| Henshaw | _____ |
| Miller | _____ |

First Reading: January 17, 2023

Publication Date: _____

Second Reading: February 7, 2023