



City of Sanibel

City Council

Planning Department Agenda Memorandum

City Council Meeting Date: April 1, 2025

To: City Council

From: Craig J. Chandler, AICP, Deputy Planning Director

Date: March 26, 2025

TITLE: Height Exceptions for Building-Back (Reconstruction) of Lawfully-existing Nonconforming Structures Substantially Damaged by a Natural Disaster

REVIEW TIMELINE:

Date	Meeting Type	Summary
3/4/2025	Planning Commission	<p>Staff presented background and provided four options for discussion:</p> <ol style="list-style-type: none">1) No action – applicants will continue to be directed to a variance application process (long form) to demonstrate compliance with <u>Sec. 82-140. – Standards – generally</u> for Planning Commission consideration on a case-by-case basis.2) Amend <u>Sec. 126-212. – Nonconforming structures</u> to provide an additional exception to height limitations for resiliency. Two examples were provided.3) Adopt new variance procedure in Chapter 82 to create a long-form process and standards tailored to resiliency under which Planning Commission may approve a variance to height limitations.4) Amend <u>Sec. 82-140 – Standards – generally</u> to remove standard number 3, which states, <u>“That the special conditions and circumstances do not result from actions taken by the applicant or proposed by the applicant, and are not otherwise self-imposed.”</u> <p>Planning Commission reached consensus and directed staff to draft a resolution recommending amendment of <u>Sec. 126-212. – Nonconforming structures</u> to provide an exception to height standards for resiliency up to a height of ten (10) feet above existing grade.</p>

3/25/2025	Planning Commission	Planning Commission unanimously approved Resolution 25-02 recommending amendment of <u>Sec. 126-212. – Nonconforming structures</u> with minor editorial revisions.
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PROPOSAL SUMMARY

Consideration of an amendment establishing a height exception for build-back (reconstruction or elevation) of a lawfully-existing nonconforming structure substantially damaged by a natural disaster that will:

- Codify existing policy that provides a height exception when reconstruction or elevation of a nonconforming structure, as necessary to comply with minimum flood elevation requirements, conflicts with maximum height or angle-of-light limitations.
- Adopt an additional height exception, for the purpose of increased resiliency from potential storm surge, to allow the height of the lowest habitable floor of a nonconforming structure to be elevated up to ten feet above existing grade and exceed applicable height limitations proportionally.

The proposed legislative text, including strikethroughs (red) and underline (green) to signify proposed deletions and additions to the existing Land Development Code, is provided on page three of this report.

The proposed legislative text is in compliance with the parameters of Senate Bill 250.

PUBLIC COMMENT

Staff have not received public comments on this item.

RECOMMENDATION

Staff recommend approval of the draft legislative text and for staff to prepare a draft ordinance for 1st Reading at City Council's next scheduled meeting.

Sec. 126-212. Nonconforming structures.

- (a) When a nonconforming structure is destroyed or substantially damaged by accidental fire or other natural and disastrous force, such structure may be built back (reconstructed):
- (1) Within its pre-disaster footprint;
 - (2) Within the three-dimensional outline of the lawfully existing habitable area of the pre-disaster building;
 - (3) Up to its pre-disaster gross square footage; ~~and~~
 - (4) Up to its lawfully existing number of dwelling units, but;
 - (5) e-Elevated above the base flood elevations required by federal flood regulations, chapter 94 of this Land Development Code, and the Florida Building Code, and conforming in all other respects to the Land Development Code requirements in effect at the time the substantially damaged building is built back (reconstructed), except for height, under the following conditions:
 - a. When reconstruction or elevation of a nonconforming structure to comply with minimum flood elevation requirements does not conform, or increases the degree of nonconformity, with applicable height standards; or
 - b. For the purpose of increased resiliency from potential storm surge, the height of the lowest habitable floor of a nonconforming structure may be elevated up to ten feet above existing grade and exceed applicable height limitations proportionally.
- (b) Applications to build-back a nonconforming structure that was destroyed or substantially damaged by accidental fire or other natural and disastrous force must be filed within 24 months of the date of the destruction or substantial damage to the building that is to be built back. If the declared state of local emergency extends beyond six months, the deadline to make application shall be extended to 36 months.
- (c) Replacement of a nonconforming use seawall that was destroyed or substantially damaged by a natural disaster (defined in chapter 78) must follow the standards established for revetments (sections 126-911 and 126-912), or alternative shoreline stabilization project (section 126-99), or section 126-152. An expedited permitting process, which waives the requirement for planning commission approval, may be authorized by the city manager or their designee once confirmation of the destruction or substantial damage is determined to be caused by a natural disaster.
- (d) In the case of a historic structure, as defined in chapter 94 or described in chapter 98, reconstruction is permitted as provided in this section, and in addition, in any manner which preserves the integrity of the structure as a historical structure.