

CITY OF SANIBEL
ORDINANCE 23-008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, TO PROVIDE THAT TENANTS DISPLACED DUE TO A NATURAL OR MAN-MADE DISASTER SHALL BE GRANTED THE RIGHT OF FIRST REFUSAL TO REOCCUPY THE REPAIRED OR RECONSTRUCTED BELOW MARKET RATE HOUSING UNIT IN ANY PROPERTY MANAGED BY THE HOUSING FOUNDATION BY AMENDING CHAPTER 102, HOUSING, ARTICLE II, BELOW MARKET RATE HOUSING, DIVISION 3, BELOW MARKET RATE HOUSING RENTAL PROGRAM, SECTION 102-102, QUALIFICATION AND RANKING OF APPLICANTS, ADDING A NEW SUBSECTION (i) DISPLACED TENANTS, CODE OF ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 28, 2022, Hurricane Ian made landfall on Sanibel island causing widespread damage to residential and commercial structures; and

WHEREAS, Hurricane Ian caused the displacement of below market rate housing tenants when the building or unit the tenant occupied was damaged; and

WHEREAS, the City Council wishes to ensure that displaced tenants have the priority right to reoccupy the repaired or reconstructed below market rate housing unit from which the tenant was displaced or otherwise occupy another vacant below market rate unit managed by the housing foundation as a priority over other applicants; and

WHEREAS, the City Council intends for this Ordinance to apply to all future damaging events that cause below market rate housing tenants to be displaced, as well as current below market rate housing tenants displaced by Hurricane Ian; and

WHEREAS, it is in the best interest of Sanibel residents to allow tenants displaced from their below market rate housing units due to a natural or man-made disaster to have the priority right to reoccupy the repaired or reconstructed unit from which the tenant was displaced or otherwise occupy another vacant unit managed by the housing foundation as a priority over new applicants.

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 ~~strike through~~ language indicating deletions and underlined language indicating additions as follows:

Chapter 102 – HOUSING

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ARTICLE II. – BELOW MARKET RATE HOUSING

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DIVISION 3. – BELOW MARKET RATE HOUSING RENTAL PROGRAM

- (a) *Applications.* All applications for below market rate housing unit rental shall be made to the housing foundation on forms to be supplied by the housing foundation. The housing foundation shall determine whether such applications are sufficiently complete and accurate to determine the qualifications of and to rate the applicants as provided for in this section.
- (b) *Qualification.* Applicants for below market rate housing rental units must meet the current maximum income and net worth schedules established by the housing foundation pursuant to subsections 102-33(7)b and c. Rental applicants shall also be required to meet the suitability guidelines established pursuant to subsection 102-33(7)k. Determination of the qualification of applicants shall be made by the city manager, upon recommendation of the housing foundation.
- (c) *Rating.* All below market rate housing rental applicants who are qualified under subsection (b) of this section shall be rated by the city manager, upon recommendation of the housing foundation, under the following criteria and in accordance with the guidelines established pursuant to subsection 102-33(7)l:

(1)	Financial need (those further below the maximum income and net worth limits receiving the higher score)	0—45 points
(2)	Length and type of employment in the city (higher scores being given for longer employment and for types of work more essential to public services and public health, welfare and safety functions)	0—45 points
(3)	Length of domicile in the city (longer residence receiving the higher score)	0—45 points
(4)	Household characteristics affecting need for housing	0—25 points
(5)	Volunteer community activities (used as a tie breaker)	0—10 points

- (d) *Use of ratings.* The housing foundation shall use the ratings and references of applicants to, in general, contact applicants for the size and type of unit available in descending order of their ratings to determine their desire and ability to rent a particular unit and shall obtain the city manager's approval of all proposed tenants.
- (e) *Notice to applicants.* The housing foundation shall notify each applicant, in writing, mailed to the address shown on the application, of the city manager's determination as to the qualification of the applicant under subsection (b) of this section.
- (f) *Appeal.* Within 15 days after notice is mailed to an applicant, the applicant may appeal a determination that such applicant is not qualified, or the rating given to the applicant is not accurate, pursuant to section 102-36. The determination of the appeal shall be based upon whether the terms of this article and the schedules and guidelines adopted under this article have been properly interpreted and applied by the city manager.
- (g) *Qualification at time of occupancy.* All applicants for below market rate housing units must be qualified at the time a lease of a below market rate housing unit is executed. The housing foundation may request the city manager to review the qualification of an applicant prior to such execution and may require additional or updated information from the applicant to permit such review. Any determination by the city manager that an applicant is no longer qualified shall be subject to the notice and appeal provisions of

subsections (e) and (f) of this section.

(h) *Annual review.* The housing foundation shall annually review outstanding applications for, and current tenants of, below market rate housing units to determine continued qualification and rating and may require additional or updated information from applicants and tenants to permit such review. Any change in qualification status or rating made by the housing foundation as a result of such review shall be subject to the notice and appeal provisions of subsections (e) and (f) of this section.

(i) *Displaced tenants* – Existing tenants who are displaced from below market rate housing units due to building damage, unit damage, or generally unsafe conditions caused by a natural or man-made disaster shall be granted the right of first refusal to reoccupy the repaired or reconstructed below market rate housing unit from which the tenant was displaced, or a similar vacant below market rate housing unit in any property managed by the housing foundation as a priority over any other applicants for below market rate housing. Displaced tenants will not be required to undergo a new tenant qualification under subsection (g) of this section provided a unit is available for occupation within one year of displacement.

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.

Attest:

Scotty Lynn Kelly, City Clerk

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: _____
Publication Date: _____
Second Reading: _____