

**CITY OF SANIBEL
ORDINANCE 23-005**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, TO AMEND THE CODE OF ORDINANCES RELATING TO OFF-STREET PARKING REQUIREMENTS AND LAND USE REGULATION WITHIN THE RESORT HOUSING DISTRICT TO STREAMLINE PERMIT PROCESSING AND AID REDEVELOPMENT; AMENDING SUBPART B LAND DEVELOPMENT CODE, CHAPTER 126, ZONING, ARTICLE XV, OFF-STREET PARKING AND LOADING, DIVISION 2, OFF-STREET PARKING, SUBDIVISION II, RESIDENTIAL USES, SECTION 126-1341, REQUIRED PARKING SPACES; ARTICLE IV, CONDITIONAL USES, SECTION 126-83, RESORT HOUSING ACCESSORY COMMERCIAL USES AND RELOCATING THOSE STANDARDS TO ARTICLE XII, RESORT HOUSING DISTRICT, ADDING SECTION 126-640, RESORT HOUSING ACCESSORY COMMERCIAL USES, 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, Staff recognized the substantial cost and design considerations associated with minimum off-street parking requirements in the context of resort housing redevelopment; and

WHEREAS, City Council directed staff to review the existing Resort Housing District land use regulations and minimum off-street parking requirements to streamline permit processing and aid redevelopment in a manner consistent with the Sanibel Plan; 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; 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, in accordance with the standards set forth in LDC Section 82-241; and

WHEREAS, the Planning Commission found the proposed amendments to the Land Development Code as indicated below are 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, the substance of which follows below.

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 126 – Zoning

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ARTICLE XV. – OFF-STREET PARKING AND LOADING

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DIVISION 2. – OFF-STREET PARKING

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Subdivision II. – Residential Uses

Sec. 126-1341. – Required parking spaces

a. No development permit shall be issued for any dwelling unit, or for any addition to or expansion of a dwelling unit, unless parking spaces, in compliance with all requirements of this article, are provided as follows:

Use	Required Parking Spaces
Single-family dwellings and duplexes	2 for each dwelling unit.
<u>Duplexes, Multifamily developments of no more than 20 dwelling units, and unified cluster housing, including except resort housing use</u>	<u>2-1</u> for each dwelling unit.
Multifamily developments of more than 20 dwelling units, except resort housing	10, plus 1.5 for each dwelling unit.
Multifamily resort housing developments	1.5 for each dwelling unit

b. In the Resort Housing District, off-street parking shall not exceed 2 per dwelling unit pursuant to Section 126-637(b)(1)(f).

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ARTICLE IV. – CONDITIONAL USES

Sec. 126-83. – ~~Resort Housing Accessory Commercial Uses~~

~~Resort housing accessory commercial uses shall be permitted as a conditional use subject to the following conditions set forth in this section:~~

- ~~(1) The development must contain 25 or more dwelling units.~~
- ~~(2) Access to the accessory use shall only be from within the development and not from any abutting street or public way.~~
- ~~(3) All of the dwelling units in the development must either be under common ownership or be approved under one development permit which unites the lands upon which the dwelling units and accessory use are located as a single lot and as to which effective restrictive covenants are recorded on the public records of the county which perpetuate the right of dwelling unit owners, tenants and guests to use such accessory commercial use.~~
- ~~(4) Resort housing accessory commercial uses must either be limited to the exclusive use of the owners, tenants and guests of the resort housing dwelling units or else provide additional parking on the site equivalent to one-half the number of parking~~

~~spaces which would be required of a similar commercial use in a commercial district.~~

- ~~(5) The resort housing accessory commercial use may be no larger than the applicant can demonstrate is reasonably necessary to serve the needs of the owners, tenants and guests of the resort housing dwelling units.~~
- ~~(6) Resort housing accessory commercial uses shall be limited to restaurants, recreational lessons and nonmotorized equipment rentals, retail sales of recreational equipment (other than vehicles, boats, and motorized equipment) used in conjunction with activities available on the site, retail sales of food items and sundries (utilizing no more than 200 square feet of floor area for any resort housing development, restricted real estate sales and rental offices and vending machines).~~
- ~~(7) In the case of real estate sales and rental offices, use shall be restricted to sale and rental of whole ownership and timeshare units located on the site, and not for off-site sales and rentals. In addition, the following restrictions shall apply:

 - ~~a. Hours of operation shall be limited to 9:00 a.m. to 6:00 p.m. daily.~~
 - ~~b. No additional on-site parking shall be required.~~
 - ~~c. Permanent street graphics and temporary "open house" signs advertising the sales activity are expressly prohibited.~~
 - ~~d. A fully executed resolution from the board of directors of the respective condominium association or other governing body setting forth the consent and authority for the establishment of the on-site sales and rental office shall be submitted with an application for the conditional use.~~
 - ~~e. Only one on-site sales or rental office may be authorized for each separate resort use.~~
 - ~~f. The for sale inventory shall consist of a minimum annual average of five percent of the total number of whole ownership or timeshare units at a given resort property in order to continue the sales office use. The respective board of directors shall provide to the city an annual accounting of the for sale inventory, with the year commencing on the date a development permit is issued for the use.~~
 - ~~g. The use must be conducted within a completely enclosed building.~~~~
- ~~(8) No rental of bicycles or other human-powered vehicles which exceed 36 inches total width shall be permitted.~~
- ~~(9) Reserved.~~

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ARTICLE XII. – RESORT HOUSING DISTRICT

Sec. 126-640 – Resort housing accessory commercial uses

Resort housing accessory commercial uses shall be permitted subject to the following conditions set forth in this section:

- (1) The development must contain 25 or more dwelling units.
- (2) Access to the accessory use shall only be from within the site and not from any abutting street or public way.
- (3) All of the dwelling units in the development must either be under common ownership or be approved under one development permit which unites the lands upon which the dwelling units and accessory use are located as a single lot and as to which

effective restrictive covenants are recorded on the public records of the county which perpetuate the right of dwelling unit owners, tenants and guests to use such accessory commercial use.

- (4) The resort housing accessory commercial use may be no larger than the applicant can demonstrate is reasonably necessary to serve the needs of the owners, tenants and guests of the resort housing dwelling units.
- (5) Resort housing accessory commercial uses shall be limited to:

 - a. Restaurants;
 - b. Recreational lessons;
 - c. Nonmotorized equipment rentals;
 - d. Retail sales of recreational equipment (other than vehicles, boats, and motorized equipment) used in conjunction with activities available on the site;
 - e. Retail sales of food items and sundries (utilizing no more than 200 square feet of floor area for any resort housing development);
 - f. Restricted real estate sales and rental offices; and
 - g. Vending machines.
- (6) In the case of real estate sales and rental offices, use shall be restricted to sale and rental of whole ownership and timeshare units located on the site, and not for off-site sales and rentals. In addition, the following restrictions shall apply:

 - a. Hours of operation shall be limited to 9:00 a.m. to 6:00 p.m. daily.
 - b. No additional on-site parking shall be required.
 - c. Permanent street graphics and temporary "open house" signs advertising the sales activity are expressly prohibited.
 - d. A fully executed resolution from the board of directors of the respective condominium association or other governing body setting forth the consent and authority for the establishment of the on-site sales and rental office shall be submitted with a business tax receipt application.
 - e. Only one on-site sales or rental office may be authorized for each separate resort use.
 - f. The for-sale inventory shall consist of a minimum annual average of five percent of the total number of whole ownership or timeshare units at a given resort property to continue the sales office use. The respective board of directors shall provide to the city an annual accounting of the for-sale inventory, with the year commencing on the date a development permit is issued for the use.
 - g. The use must be conducted within a completely enclosed building.

Secs. 126-641—126-650. – Reserved.

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