

**CITY OF SANIBEL
ORDINANCE 23-019**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, TO AMEND THE CODE OF ORDINANCES RELATING TO ASSUMED CEILING HEIGHTS FOR BUILD BACK OF SUBSTANTIALLY DAMAGED OR DESTROYED NONCONFORMING STRUCTURES, AMENDING SUBPART B LAND DEVELOPMENT CODE, CHAPTER 126, ZONING, ARTICLE V, NONCONFORMANCES, DIVISION 5, STANDARDS FOR BUILDING-BACK (RECONSTRUCTION) OF STRUCTURES SUBSTANTIALLY DAMAGED BY A NATURAL DISASTER, SECTION 126-219, BUILDBACK REGISTRATION, SUBSECTION (b), FOR THE PURPOSE OF AMENDING THE LAND DEVELOPMENT CODE REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City Council intends that a property owner can build back a nonconforming structure after that building is substantially damaged or destroyed by a natural disaster, in most instances, and

WHEREAS, it is in the public interest to establish regulations that reduce the practical hardship to the owner in seeking and administrative burden upon the City in processing applications after a natural disaster, and

WHEREAS, the City Council finds that allowing an assumed ceiling height of 9 feet rather than 8 feet is consistent with the policy of the Sanibel Plan, Section 3.2.5, Scenic Preservation, Policy 1.1, that the height of building will not exceed three (3) stories above the base flood elevation; and

WHEREAS, all required public notices and public hearings for such amendment have been properly given and held; and

WHEREAS, the Planning Commission held a legally and properly advertised public hearing on March 28, 2023, at which the Planning Commission heard and considered comments and recommendations from the Planning Staff and the public pertaining to a draft amendment related to ceiling heights; 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 V. – NONCONFORMANCES

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DIVISION 5. – STANDARDS FOR BUILDING-BACK (RECONSTRUCTION) OF STRUCTURES SUBSTANTIALLY DAMAGED BY A NATURAL DISASTER

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Sec. 126-219. Buildback registration.

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(b) In the event that buildback registration has not been filed with the city prior to substantial damage to a building, the city manager will use the best information available to determine the pre-disaster height of the substantially damaged building, including the pre-disaster ceilings height of the building. Without buildback registration or other evidence deemed to be competent by the city manager of ceiling heights greater than nine feet, the determination of pre-disaster building height will assume ceiling heights of ~~eight~~ up to nine feet. This provision does not permit an overall building height to exceed the maximum building height otherwise established by the land development code.

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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.

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: June 6, 2023
Publication Date: _____
Second Reading: _____