

**CITY OF SANIBEL  
ORDINANCE 23-XX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, AMENDING THE CODE OF ORDINANCES RELATED TO FEES AND VEGETATION STANDARDS BY AMENDING CHAPTER 90, FEES, ARTICLE I, IN GENERAL, SECTION 90-5, EXEMPTIONS, IMMUNITIES, AND WAIVERS; AND CHAPTER 122, VEGETATION, ARTICLE II, LANDSCAPING, DIVISION 2, COMMERCIAL AND INSTITUTIONAL USES, SECTION 122-47, VEGETATION BUFFERS REQUIRED, SECTION 122-48, LOCATION AND SIZE OF REQUIRED VEGETATION BUFFERS, SECTION 122-49, TYPES, VARIETIES, AND NUMBERS OF PLANTS REQUIRED; DIVISION 3, RESIDENTIAL DEVELOPMENT ALONG ARTERIAL AND COLLECTOR ROADS, SECTION 122-72, LOCATION AND SIZE OF VEGETATION BUFFERS, AND SECTION 122-73, TYPES, VARIETIES, AND NUMBERS OF PLANTS REQUIRED; FOR THE PURPOSE OF UPDATING LAND DEVELOPMENT CODE REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Vision Statement to the Sanibel Plan established a hierarchy of values of which the dominant principle is Sanibel's sanctuary quality. Sanibel shall be developed as a community only to the extent to which it retains and embraces this quality of sanctuary; and

**WHEREAS**, provision #5 in the Plan for Vegetation Preservation (Sanibel Plan) encourages the use of native species of plants in the landscaping of future developments; and

**WHEREAS**, provision #6 in the Plan for Scenic Preservation (Sanibel Plan) requires vegetation buffers between commercial developments and roadways and along property lines to embrace the compatibility of buildings with community as a whole; and

**WHEREAS**, provision #14 of the Plan for Commercial Development (Sanibel Plan) retains development standards that assure commercial developments contribute to maintenance of the character of the community by maintaining substantial vegetation buffers and by presenting architectural features that are compatible with the community as a whole; and

**WHEREAS**, the Planning Commission held a legally and properly advertised public hearing on November 14, 2023, 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 (LDC), in accordance with the standards set forth in LDC Section 82-241; and

**WHEREAS**, the Planning Commission found the proposed amendments to the LDC as referenced above to be 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.

**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 ~~striketrough~~ language indicating deletions and underlined language indicating additions as follows:

## **Chapter 90 – FEES**

### **ARTICLE I. – IN GENERAL**

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#### **Sec. 90-5. – Exemptions, immunities, and waivers.**

- (a) The city is exempted from the fees set forth in this chapter.
- (b) Other governmental entities which are by law immune from payment of the fees set forth in this Land Development Code, or which exempt the city from payment of fees for the same services under their laws or ordinances, shall not be required to pay the fees set forth in this chapter.
- (c) Applications initiated by a property owner to place that owner's property into the environmentally sensitive lands conservation district shall be exempt from payment of fees set forth in this chapter.
- (d) Applications initiated by a property owner to place that owner's property upon the local historic register or to obtain a certificate of appropriateness for historic rehabilitation or preservation shall be exempt from payment of the fees set forth in this chapter.
- (e) Applications initiated by or on behalf of the below market rate housing program shall be exempt from the payment of the fees set forth in this chapter.
- (f) Applications initiated by a property owner for a waiver (to lawfully existing nonconforming properties located in the general, town center general and town center limited commercial districts) to the installation, location, numbers, types, size, and variety specified for commercial vegetation buffers and landscaping, shall be exempt from the payment of the fees set forth in this chapter. ~~Applications for a waiver to lawfully existing nonconforming properties located in the general, town center general and town center limited commercial districts for the installation, location, numbers, types, size, and variety specified for commercial vegetation buffers and landscaping, upon which vegetation improvements were initiated by the property owner proactively in compliance with waiver standards in section 82-351(e), as reviewed and verified by the city manager or the manager's designee, shall be exempt from the payment of the fees set forth in this chapter.~~
- (~~g~~f) The city council, by resolution, may waive payment of all or part of a fee for any of following reasons:
  - (1) Demonstrated hardship of a kind and nature exceeding the general inconvenience of paying fees.
  - (2) The resubmission of an application is found to be necessary, and it would be inequitable to require payment of a full application fee.
  - (3) All or a substantial portion of the benefit resulting from the application will be a public benefit.
  - (4) For a specific period of time following a natural or man-made disaster. Waiver of fees under this subsection (~~f~~)(g)(4) may also be enacted by mayoral proclamation.
- (~~h~~g) Fees shall not be waived where to do so would result in a discriminatory fee structure.

**CHAPTER 122. - VEGETATION**

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**ARTICLE II. – LANDSCAPING**

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**DIVISION 2. – COMMERCIAL AND INSTITUTIONAL USES**

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**Sec.122-47. - Vegetation buffers required.**

In addition to the interior landscaping required for parking areas by section 126-1405, all commercial and institutional development and uses (including special uses not exempted from compliance with this division) shall include strips of vegetation (called "vegetation buffers" in this division), in compliance with the standards of this division for the location, planting, and maintenance of such vegetation buffers, as a means of providing a barrier to both light and sound created by such uses and for the purpose of maintaining a rural, natural environment and wildlife corridor along city streets.

**Sec.122-48. - Location and size of required vegetation buffers.**

Vegetation buffers required by this division shall be located and sized in accordance with the following requirements:

- (1) A vegetation buffer at least 20 feet in depth shall be located adjacent to the right-of-way of any street, ~~except for Periwinkle Way between Causeway Road and Tarpon Bay Road.~~
- ~~(2) Along Periwinkle Way between Causeway Road and Tarpon Bay Road, a vegetation buffer at least 20 feet in depth shall be located a minimum of 50 feet and a maximum of 90 feet from the centerline of the Periwinkle Way right-of-way and shall run parallel to such centerline.~~
- (23) Vegetation buffers at least 15 feet in depth shall be located along all side lot lines.
- (34) Vegetation buffers at least 15 feet in depth shall be located along all rear lot lines, or along the boundary of a commercial district if such boundary is located on the property closer to the abutting street than the rear lot line.
- (45) The minimum depths for vegetation buffers required by subsections (1) through (4) (3) of this section may be increased by the city manager or the manager's designee ~~planning commission~~ when necessary to accommodate drainage easements and facilities, overhead power lines, and other natural or manmade features located along the boundaries of the parcel in question which constrain the establishment of required vegetation buffers.
- (56) Required vegetation buffers must be entirely located between the property lines of a lot or parcel and all structural development and driveways and parking areas located on such lot or parcel.

**Sec.122-49. – Types, varieties, and numbers of plants required.**

Each vegetation buffer required by this division shall be installed with plants meeting the following requirements:

- (1) Each required vegetation buffer shall include at least one large or medium tree for each 75 square feet of the required buffer area, excluding areas within existing or

- proposed ingress-egress driveways or inter- and intra-connectivity pathways, with a minimum of six different species of native plants included.
- (2) Each required vegetation buffer shall include at least one small tree or medium shrub for each 30 square feet of the required buffer areas, excluding areas within existing or proposed ingress-egress driveways or inter- and intra-connectivity pathways, (at least 25 percent of which must be small trees), with a minimum of five different species of native plants included.
  - (3) Each required vegetation buffer shall include at least one low growing (small) shrub or groundcover plant for each 25 square feet of the required buffer area, excluding areas within existing or proposed ingress-egress driveways or inter- and intra-connectivity pathways, with a minimum of three different species of native plants included. No St. Augustine, Bermuda, Zoysia, Bahia, or sod-type grasses or vines shall be used to satisfy this requirement.
  - (4) A minimum of 75 percent of the plants required by each of the subsections (1) through (3) of this section shall be native plants. The remainder may be either native plants or noncompeting exotic species of plant. Invasive exotic vegetation shall not be permitted within the required buffers. The category for native plants (as large or medium trees, small trees or medium shrubs, or low growing (small) shrubs or groundcover plants) is specified on the city's horticulturally available native plants list. The applicable category for noncompeting exotic species of plant shall be as determined by the city manager, or the manager's designee, categorized by size in a manner consistent with the horticulturally available native plant list. ~~Considering trees generally over 25 feet in height at time of maturity as large or medium trees and considering the similarity of noncompeting exotic species of small trees, shrubs, low growing (small) shrubs and groundcover plants to the categories established for native plants.~~ Existing, preserved plants shall be counted toward meeting the requirements of this division.
  - (5) An administrative waiver to subsections (1), (2), and (3), to incentivize use of native plant species in landscaping, may be authorized, if the following conditions are met:
    - (a) All vegetation within a required vegetation buffer is 100 percent native plant species.
    - (b) Eighty-five (85) percent of the total number of plants required by subsections (1), (2), and (3) are installed pursuant to section 122-50.

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### **DIVISION 3. – RESIDENTIAL DEVELOPMENT ALONG ARTERIAL AND COLLECTOR ROADS**

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#### **Sec. 122-72. – Location and size of vegetation buffers.**

Vegetation buffers required by this division shall be located and sized in accordance with the following requirements:

- (1) A vegetation buffer at least 20 feet in depth shall be located adjacent to the right-of-way of any (rural) arterial and (rural) collector roads ~~except for Periwinkle Way between Causeway Road and Tarpon Bay Road. Along Periwinkle Way between Causeway Road and Tarpon Bay Road, a vegetation buffer at least 20 feet in depth shall be located a minimum of 50 feet and a maximum of 90 feet from the centerline of the Periwinkle Way right-of-way and shall run parallel to such centerline.~~
- (2) The minimum depths for vegetation buffers required by subsection (1) of this section may be increased by the city manager or the manager's designee planning commission when necessary to accommodate drainage easements and facilities, overhead power lines, and other natural or man-made features located along the

boundaries of the parcel in question which constrain the establishment of required vegetation buffers.

- (3) Required vegetation buffers must be entirely located between the property lines of a lot or parcel and all structural development and driveways and parking areas located on such lot or parcel.

**Sec.122-73. - Types, varieties, and numbers of plants required.**

Each vegetation buffer required by this division shall be installed with plants meeting the following requirements:

- (1) Each required vegetation buffer shall include at least one large or medium tree for each 75 square feet of the required buffer area, excluding areas within existing or proposed ingress-egress driveways or inter- and intra-connectivity pathways, with a minimum of six different species of native plants included.
- (2) Each required vegetation buffer shall include at least one small tree or medium shrub for each 30 square feet of the required buffer area, excluding areas within existing or proposed ingress-egress driveways or inter- and intra-connectivity pathways, (at least 25 percent of which must be small trees) with a minimum of six different species of native plants included.
- (3) Each required vegetation buffer shall include at least one low growing (small) shrub or groundcover plant for each 25 square feet of the required buffer area, excluding areas within existing or proposed ingress-egress driveways or inter- and intra-connectivity pathways, with a minimum of three different species of native plants included. No St. Augustine, Bermuda, Zoysia, Bahia, or other sod-type grasses or vines shall be used to satisfy this requirement.
- (4) A minimum of 75 percent, by count, of the in-ground trees and shrubs required by each of the subsections (1) through (3) of this section shall be native species. The remainder may be either native or noncompeting exotic species. Invasive exotic vegetation shall not be permitted within the required buffers. The category for native species as large or medium trees, small trees or medium shrubs, or low growing (small) shrubs or groundcover plants, is specified on the city's horticulturally available native plants list. The applicable category for noncompeting exotic species of plants shall be as determined by the city manager, or the manager's designee, categorized by size in a manner consistent with the horticulturally available native plant list, considering trees generally over 25 feet in height at time of maturity as large or medium trees and considering the similarity of noncompeting exotic species of small trees, low growing (small) shrubs and groundcover plants to the categories established for native plants. Existing, preserved plants shall be counted toward meeting the requirements of this division.
- (5) An administrative waiver to subsections (1), (2), and (3), to incentivize use of native plant species in landscaping, may be authorized, if the following conditions are met:
  - (a) All vegetation within a required vegetation buffer is 100 percent native plant species.
  - (b) Eighty-five (85) percent of the total number of plants required by subsections (1), (2), and (3) are installed pursuant to section 122-50.

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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.

**FIRST READING SCHEDULED FOR THE 16TH DAY OF JANUARY 2024.**

**SCHEDULED FOR SECOND READING AND PUBLIC HEARING IN OPEN AND SPECIAL SESSION OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA THE 6TH DAY OF FEBRUARY 2024.**

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: \_\_\_\_\_, 2024  
Publication Date: \_\_\_\_\_  
Second Reading: \_\_\_\_\_