



City of Sanibel

Planning Department

MEMORANDUM

DRAFT

DATE: September 11, 2012

TO: Jim Jordan, Planning Director

FROM: Scott Fulton, Planner

SUBJECT: Proposed Neglected Properties: Building and Grounds Ordinance

The intent of the proposed ordinance is to maintain the housing stock of the City of Sanibel, protect the value of the property and protect the value of the neighboring properties. Although the vast majority of commercial and residential properties on Sanibel are well maintained, over the last few years Staff has seen an increase in the number of complaints received from neighboring properties owners about adjacent developed properties that have fallen into a state of deterioration or neglect due to a lack of normal routine maintenance and repairs. While these incidences of deterioration and neglect are generally isolated they can have an adverse impact on surrounding properties values including the community's overall image as a whole.

Until recently Sanibel has not needed specific regulations by which the City can address neglected buildings and/or properties. Therefore, staff recommends an ordinance specifically designed to address neglected building and property conditions that could provide the City with the appropriate tool required to respond to these issues of neglect and ultimately bring these buildings and properties into compliance in order to maintain both our neighborhoods and property values.

The photographs contained in this document are examples of some of the complaints that Code Enforcement has received about properties in the City of Sanibel; one of these structures has since been demolished.



Other cities throughout the State of Florida including, but not limited to, Naples, Longboat Key and Fort Myers and, have all codified ordinances that addresses certain building maintenance and neglected property issues.

Staff recommends drafting similar legislation in the form of an ordinance to address specific building and property maintenance neglect and neglect issues whereby:

- Neglected would be defined as *the failure of a reasonably prudent person to exercise normal care and maintenance of a building or property thus leading the same into a state of degradation that could become a hazard to the public health, safety, or general welfare.*
- A building and/or property would be declared neglected if it is inspected by the Enforcing Official and shows evidence of neglect.
- Developed properties that have been traditionally maintained must continue to do so unless the property is purposely being converted to native landscaping.
- Properties must remain generally free of unwanted debris and litter.
- Pools, fountains, hot tubs, and spas. must be maintained with clear water and free of noxious odors.
- The exterior of structures must be kept generally in good appearance and repair without holes or excessive mold, mildew or peeling paint or siding.
- A structure's roof must be kept in sound repair and the gutters properly affixed.
- Exterior stairs, ramps, landings, balconies, porches, decks or other walking surfaces must be kept in good repair.



- Any excavations, swimming pools, hot tubs, spas, at grade fountains and other attractive nuisances on abandoned or vacant properties must be kept secured to prevent accidents and unauthorized access by others.



- Exterior structural elements, such as a roof or siding, must be kept properly secured so as to not become a projectile in high winds.

- A neglected property that is abandoned or kept vacant must be properly secured by the closing and locking of all windows, doors, gates and similar openings so as to deter access to unauthorized persons or wildlife.



- The enforcement of the proposed ordinance will be established in Section 2-352 of the Sanibel Code and consistent with Chapter 162 of the Florida Statutes.

- In order to achieve compliance, Staff can establish an Abatement Plan with the property owner.
 - Application submitted to the Planning Department shall address the justification for an Abatement Plan and have a plan for the remediation and a timeline for its completion.
 - Staff will review the plan and either approve, deny or modify the plan within seven days; written notice of Staff decision will be sent to the owner and/or their designee.
 - Within seven days, the owner or their designee must apply for all necessary permits to complete the abatement plan; failure to do so would nullify the approved abatement plan and be schedule before the Code Enforcement Hearing Examiner.
- Appeals to the ordinance can be made through the existing appeal process as outlined in Section 14-270 of the Sanibel Code.

The next steps in this process, should Council approve of this type of an ordinance, would be as follows:

1. The proposed ordinance would be given a public hearing before the Planning Commission for review and a recommendation. If approved, a resolution would be forwarded on to City Council by the Planning Commission.
2. The proposed ordinance will be given a reading before the City Council.
3. The proposed ordinance would be given a public hearing before City Council. If approved, the ordinance would become effective on the effective date included in the ordinance.

DRAFT

CITY OF SANIBEL

ORDINANCE NO. 12 - ■

AN ORDINANCE AMENDING THE CODE OF ORDINANCES;
SUBPART A GENERAL ORDINANCES; PART II SANIBEL CODE;
CHAPTER 14 BUILDINGS AND BUILDING REGULATIONS BY
ADDING AN ARTICLE ESTABLISHING PROPERTIES THAT HAVE
BEEN DECLARED TO BE A NUISANCE AND/OR NEGLECTED;
INCLUDING A SECTION FOR DEFINITIONS; A SECTION FOR
SERVICE OF VIOLATION; A SECTION FOR AN ABATEMENT
PLAN; A SECTION FOR APPEAL; PROVIDING FOR CONFLICT
AND SEVERANCE; PROVIDING FOR CODIFICATION; AND
PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 166.021, Florida Statutes, the Sanibel City Council has the power to adopt ordinances necessary for the exercise of power and prescribe fines and penalties for the violation of ordinances in accordance with law; and

WHEREAS, recent events in the housing market have led to a rise in the number of nuisance and neglected properties nationwide and within the City; and

WHEREAS, nuisance and neglected properties succumb to the forces of nature and the elements; swimming pools, spas, and fountains become stagnant creating public health hazards; windows break, and exteriors suffer damage from normal wear-and-tear and vandalism, all of which has a negative impact on neighboring properties; and

WHEREAS, nuisance and neglected properties often create both aesthetic and attractive public nuisances leading to neighborhood decline; and

WHEREAS, the Sanibel Code does not currently contain provisions to address nuisance and neglected properties; and

WHEREAS, the owners or mortgagee have an interest in the continued maintenance and security of nuisance and property subject to the terms of each mortgage; and

WHEREAS, the City desires to protect its neighborhoods from decline and devaluation; to protect the public health, safety, and welfare of its citizens; and to maintain a high quality of life for the community; and

WHEREAS, the presence of nuisance and neglected properties may discourage buyers from purchasing property adjacent to or in areas where these properties exist; and

WHEREAS, the City finds that the abatement of nuisance and neglected properties will protect against decay and devaluation of such properties, and surrounding properties, that is caused by the lack of adequate maintenance, neglect, and disrepair of those nuisance and neglected properties.

NOW, THEREFORE, BE IT ORDAINED by the City Council for the City of Sanibel, Florida:

SECTION 1. The Code of Ordinances of the City of Sanibel, **Chapter ###, Article ###**, is hereby amended to add a new **Section ###** Purpose with underlining indicating added language, as follows:

Section ###. Purpose

It is the intent of this ordinance to protect and preserve public safety and security while adhering to the goals, policies and objectives of the Sanibel Plan by creating guidelines by which all properties shall be maintained to prevent blighted and unsecured residences and preserve the integrity of our neighborhoods.

SECTION 2. The Code of Ordinances of the City of Sanibel, **Chapter ###, Article ###**, is hereby amended to add a new **Section ###** Applicability with underlining indicating added language, as follows:

Section ###. Applicability

1. A property shall be considered neglected if it meets one or more of the following criteria:
 - a. The property is declared a nuisance upon inspection by the Enforcing Official; or
 - b. The property shows evidence of neglect or is declared neglected upon inspection by the Enforcing Official.

SECTION 3. The Code of Ordinances of the City of Sanibel, **Chapter ###, Article ###**, is hereby amended to add a new **Section ###** Definitions with underlining indicating added language, as follows:

Section ###. Definitions

The following terms, when used in this Section will have the following meanings, except where the context clearly indicates and requires a different meaning.

Abandoned means any property in the City of Sanibel that is vacant and under a current Notice of Default and is the subject of a foreclosure action or proceeding, is the subject of a foreclosure sale where the title was retained by the lender in the foreclosure, and/or has been transferred under a deed in lieu of foreclosure or sale to the lender.

Enforcing Official means the City Manager or their designee.

Evidence of Neglect means any condition that on its own, or in combination with other conditions present, would lead a reasonable person to believe that the property is neglected.

Inspection means a close viewing of the property and the exterior of any structures located thereon and includes viewing of any interior portions of the structure which are visible from the outside of the structure; however, entry into any structure may not be required for the purpose of viewing the interior.

Landscaping means the elements of the property to include, but not be limited to, grass, ground covers, bushes, shrubs, hedges, trees or similar plantings, decorative rock, shells, mulch or bark. Landscaping does not include weeds, broken concrete, asphalt or similar material.

Neglected means the failure to exercise the care, either by action or inaction, that a reasonably prudent person would exercise in the maintenance of a property leading to a state of degradation or deterioration that could be a hazard to the public health, safety or general welfare.

Nuisance means any item, thing, manner, or condition whatsoever that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property or could otherwise be a hazard to the public health, safety or general welfare.

Owner means every person, entity, or service company, who alone or severally with others:

1. Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, building, or structure; or
2. Has care, charge or control of any dwelling, dwelling unit, or building, in any capacity including but not limited to agent, executor, administrator, trustee or guardian of the estate of the holder of legal title; or
3. Is a borrower in possession of any such property; or
4. Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property.

Property means any real property, or portion thereof located in the City of Sanibel, including buildings, structures and other improvements situated on the property.

Vacant means any property that is not legally occupied for at least 30 days. This does not apply to undeveloped land or second homes.

SECTION 4. The Code of Ordinances of the City of Sanibel, **Chapter ###, Article ###**, is hereby amended to add a new **Section ###** Maintenance Requirements with underlining indicating added language, as follows:

Section ###. Maintenance Requirements

1. Properties subject to this ordinance shall be maintained in accordance with the terms and conditions set forth herein, all applicable City codes and ordinances, State laws, relevant sanitary codes, and the Florida Building Code concerning external or visible maintenance.
2. Front, side and rear yards shall be maintained to the landscaping character of the neighborhood as defined in Section 86-43 unless the property is purposefully being converted to native landscaping. Front, side and rear yards shall be free of all Noxious Plants as defined in Section 14-245 and subject to the provisions of Section 122-191. Due to the varying degree of landscaping in yards within the City of Sanibel, the following shall apply:
 - a. Yards that have been historically maintained as a manicured lawn shall continue to be maintained in this manner showing no signs of excessive height, neglect, discoloring or dead vegetation.
 - b. Yards containing gravel, rock, shell or similar materials shall remain in their current state and be kept reasonably free of undesirable vegetation growing from areas of the property not intended for vegetative growth.
 - c. Properties that employ native landscaping principles are exempt from the maintenance standards applicable for lawns outlined in Section ####(a) letter a, so long as the native landscaping does not impede the safe ingress and egress or pose a fire hazard to the structure or building.
3. Front, side, and rear yards shall remain free of litter as defined in Sections 30-31, 30-34 and 30-36 of the Sanibel Code.
4. Pools, fountains, hot tubs and spas shall be maintained so the water remains free and clear of hazards, pollutants, debris and fungal or plant growth and shall not produce noxious odors or provide a breeding ground for mosquitos. Pools,

fountains, hot tubs and spas shall comply with the requirements of City codes and ordinances and the Florida Building Code.

5. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary with no instances of excessive mold, mildew, or peeling and chipped paint to the degree that it detracts from the overall appearance of the property or could be a hazard to the public health, safety or general welfare. Walls shall be free of holes, loose or rotten wood, be weatherproofed and properly coated to prevent deterioration.
6. The roof and flashing shall be sound, tight and not have defects that admit leaks. Roof drains, gutters and downspouts shall be maintained in good repair and properly affixed. Roof water shall not be discharged in a manner that creates a public nuisance.
7. Every exterior stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.
8. The roof, siding, awnings, chimneys, sheds, and all other exterior structural elements of the property shall be maintained in good repair and anchored in such a way as not to become a flying projectile in high winds.

SECTION 5. The Code of Ordinances of the City of Sanibel, **Chapter ###, Article ###**, is hereby amended to add a new **Section ###** Security Requirements with underlining indicating added language, as follows:

Section ###. Security Requirements

1. Properties determined to be abandoned or vacant upon inspection shall be maintained in a secure manner so as to be accessible to wildlife or unauthorized persons. A secure manner will include, but not be limited to, the closure and locking of all windows, doors, gates and other openings of such size that may allow a small mammal to access the interior of the property or structures. Broken windows shall be secured by re-glazing or replacing the windows within 30 days of being damaged.
2. Any excavations, swimming pools, hot tubs, spas, at grade fountains or other attractive nuisances shall be properly secured and comply with the requirements of City codes and ordinances and the Florida Building Code.

SECTION 6. The Code of Ordinances of the City of Sanibel, Chapter ###, Article ###, is hereby amended to add a new Section ### Notice of Violation with underlining indicating added language, as follows:

Section ###. Notice of Violation

A notice of violation for all provisions of this section shall be administered as defined in Section 2-352 of the Sanibel Code and in Chapter 162, F.S.

SECTION 7. The Code of Ordinances of the City of Sanibel, Chapter ###, Article ###, is hereby amended to add a new Section ### Abatement Plan with underlining indicating added language, as follows:

Section ###. Abatement Plan

1. Should the items requested to be remedied be very costly or complex, the owner or their designee may apply for an abatement plan with the Planning Department. The application shall include the following:
 - a. Justification for the need of an abatement plan such as excessive costs or complexity of remedy; and
 - b. A plan for each item to be remedied; and
 - c. A timeline for each item to be remedied.
2. The Planning Department shall review the application and either approve, deny, or modify the abatement plan within seven (7) days of receipt of the abatement plan. Written notice of the Planning Department's decision shall be provided to the owner or their designee.
3. The owner or their designee shall apply for any and all of the requisite building and development permits within seven (7) days of an approved abatement plan. Failure to do so shall render the approved abatement plan null and void.

SECTION 8. The Code of Ordinances of the City of Sanibel, Chapter ###, Article ###, is hereby amended to add a new Section ### Appeal with underlining indicating added language, as follows:

Section ###. Appeal

Any person aggrieved by the requirements of this ordinance may seek an appeal in accordance with process set forth in Section 14-270 of the Sanibel Code.

SECTION ##. Codification.

This ordinance shall be an amendment to the Code of Ordinances of the City of Sanibel, Subpart B of Part II. In Article XII of Chapter 126, Sections ###, ###, ###, ###, ###, ###, ###, ### are added.

SECTION ##. Conflict.

All ordinances and parts of ordinances in conflict herewith shall be and the same are 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 ##. 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 ##. Effective date.

This Ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Lee County, Florida, this _____ day of _____, 2012.