



City of Sanibel

Planning Department

MEMORANDUM

DATE: October 30, 2012

TO: Jim Jordan, Planning Director

FROM: Scott Fulton, City Planner

SUBJECT: Proposed Neglected Property: Building and Grounds Ordinance –
November Council Meeting

In response to the requests from City Council following the October meeting, the following information regarding the Proposed Neglected Property: Building and Grounds Ordinance is attached in preparation for the November meeting.

- Proposed Neglected Property: Building and Grounds Ordinance Power Point Presentation.
- Current Code Enforcement process flow chart.
- Chart providing additional information regarding the photos included in the presentation for the October meeting.



Proposed Neglected Property: Building and Grounds Ordinance

**October Council Meeting
Follow Up**

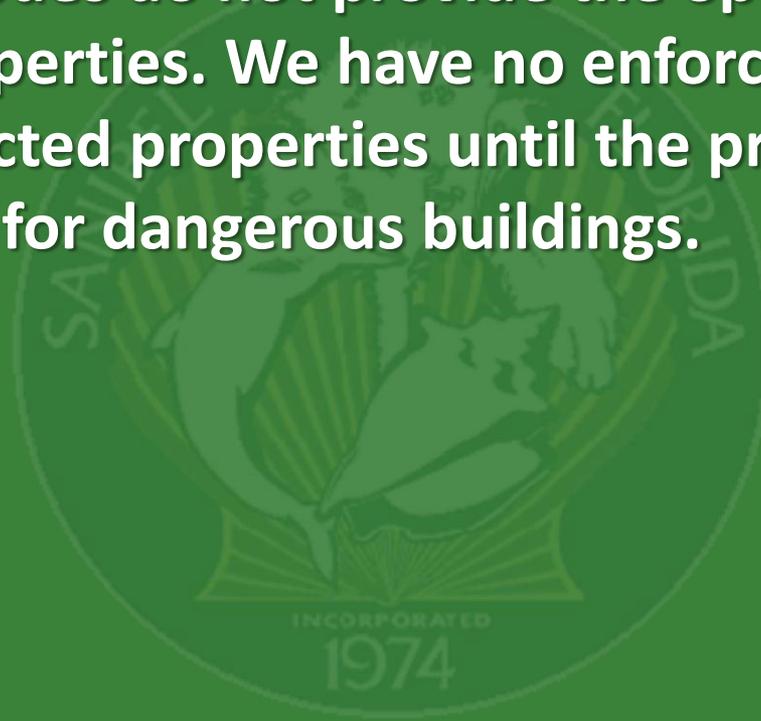
Background:

Although the incidents of neglected properties in the City of Sanibel have been, and continue to be, isolated, the number of complaints from neighboring properties has increased over the last few years.

At the last City Council meeting, Staff presented proposed regulations that will provide the tools to bring neglected properties into compliance and also bridge the gap that exists today within the Land Development Code.

Challenge:

Our current codes do not provide the option of addressing neglected properties. We have no enforcement tools to address neglected properties until the properties reach the standards for dangerous buildings.



Increased Complaints:

- Increased complaints from neighbors.
- Increased complaints from realtors.
- Increased complaints from Home Owners Associations.
- Increased complaints from concerned parents.
- Increased complaints regarding hazards in storm events.

Current unaddressed neglected properties:

Address:

1447 Tahiti Drive

Time property has been an issue:

6 months

Number of complaints:

0 complaints. The Code Enforcement Officer observed the chimney missing pieces of wood. Now the porch is missing its railings which could now qualify the building as dangerous.

Reason for complaints:

N/A

Reason compliance has not been achieved:

The home is currently vacant. The Code Enforcement Officer will be following up to determine if the home has deteriorated to the point that it can be considered dangerous.



Current unaddressed neglected properties:

Address:

1108 Sandcastle Road

Time property has been an issue:

4 months.

Number of complaints:

10 complaints.

Reason for complaints:

Tall grass and the condition of the building.

Reason compliance has not been achieved:

The building cannot be considered dangerous. Tall grass and excessive mold and chipping paint are not violations under the current code.



Current unaddressed neglected properties:

Address:

1826 Ardsley Way

Time property has been an issue:

2 years

Number of complaints:

1 Complaint

Reason for complaints:

The condition of the building and the overgrown nature of the property.

Reason compliance has not been achieved:

The condition of the property has not yet deteriorated to the point that it can be considered dangerous and the code does not contain provisions to address overgrown vegetation.



Current unaddressed neglected properties:

Address:

5100 Sea Bell Road

Time property has been an issue:

5 years

Number of complaints:

10 Complaints

Reason for complaints:

The condition of the property and the potential for access by unauthorized persons.

Reason compliance has not been achieved:

Property has been in a state of disrepair for a number of years. Front staircase became so dilapidated that it fell down, allowing Code Enforcement to declare the property to be dangerous. Code Enforcement Officer recently was able to have railing repaired.



Current unaddressed neglected properties:

Address:

2630 West Gulf Drive

Time property has been an issue:

8 years

Number of complaints:

20 complaints

Reason for complaints:

The condition of the building, excessive chipping paint, overgrown grass and unfinished construction.

Reason compliance has not been achieved:

The condition of the property has not yet deteriorated to the point that it can be considered dangerous. The Code Enforcement Officer has had some success over the years with having the grass mowed.



Current unaddressed neglected properties:

Address:

1805 Ardsley Way

Time property has been an issue:

5 years

Number of complaints:

20 complaints

Reason for complaints:

The condition of the building, tires piled in the yard, parking of a boat and a trailer in the front yard.

Reason compliance has not been achieved:

The tires were a violation, but the boat and trailer were not. The condition of the home is not a violation because the home has not deteriorated to the point that it can be considered dangerous, but neighbors have stated the interior is in poor condition.



Current unaddressed neglected properties:

Address:

708 Tarpon Bay Road

Time property has been an issue:

Over 5 years

Number of complaints:

0 complaints

Reason for complaints:

N/A

Reason compliance has not been achieved:

The condition of the property has not yet deteriorated to the point that it can be considered dangerous and the code does not contain provisions to address overgrown vegetation or unsecured access to the building that could allow access to wildlife.



Current unaddressed neglected properties:

Address:

2330 Palm Ridge Road

Time property has been an issue:

Over 2 years

Number of complaints:

2 complaints

Reason for complaints:

Dilapidated sidewalks, excessive chipping paint, mold and dirt.

Reason compliance has not been achieved:

The condition of the property has not yet deteriorated to the point that it can be considered dangerous and the code does not contain provisions to address excessive chipping paint, mold or dirt, dilapidated sidewalks and overall condition of the property.



Proposed Code Changes:

- Exterior of structures kept in good repair without holes or excessive mold, mildew or chipping paint.
- Exterior structural elements such as roofs and siding must be secured so as to not become a projectile in high winds.
- Property must be free of litter.
- Pools, fountains, hot tubs and spas must be maintained with clear water and no noxious odors.
- Roof kept in good repair and gutters secured.
- Exterior walkways, decks and balconies must be kept in safe condition.

Proposed Code Changes:

- Provisions for securing neglected property will apply if the property is:
 - Vacant
 - Unoccupied for at least 30 days.
 - Abandoned
 - Vacant and in the process of foreclosure.
- Secured by:
 - Closing and locking of all windows, doors, gates and other openings.
 - Inaccessible to unauthorized persons or wildlife.
- All water features, such as swimming pools, hot tubs and spas, must be secured to prevent unauthorized access.

Alternatives:

- Not pursue code changes.
- Refer to the Planning Commission with a time line.
- Further City Council discussions regarding action.



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.