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CITY OF SANIBEL

ORDINANCE NO. 13 - __

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, PART II – SANIBEL CODE; SUBPART B, LAND DEVELOPMENT CODE; CHAPTER 126 – ZONING; TO ADD A NEW DIVISION 17. DISTRESSED PROPERTIES IN ARTICLE XIV SUPPLEMENTARY DISTRICT REGULATIONS, TO INCLUDE A NEW SECTION 126-1311 PURPOSE, APPLICABILITY AND DEFINITIONS; AND A NEW SECTION 126-1312 MAINTENANCE AND SECURITY STANDARDS; AND A NEW SECTION 126-1313 NOTICE OF VIOLATION, ABATEMENT PLAN AND APPEAL PROCEDURES; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING 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 distressed properties nationwide and within the City; and

WHEREAS, distressed 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, distressed properties can often create an attractive public nuisances that leads to neighborhood decline; and

WHEREAS, the Sanibel Code does not currently contain provisions to address distressed or aging properties; and

WHEREAS, the owners or mortgagee have an interest in the continued maintenance and security of distressed 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 distressed 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 distressed 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 distressed 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 126, is hereby amended to add a new Division 17. Distressed properties with underlining indicating added language, as follows:

Division 17. Distressed Properties

SECTION 2. The Code of Ordinances of the City of Sanibel, Chapter 126, Article XIV, is hereby amended to add a new Section 126-1311 Purpose, Applicability and Definitions with underlining indicating added language, as follows:

Section 126-1311. Purpose, Applicability and Definitions

Purpose. It is the intent of this ordinance to protect and preserve property values and the general character and appearance of the community while adhering to the goals, policies and objectives of the Sanibel Plan by establishing specific requirements and procedures whereby all properties shall be adequately maintained so as to prevent blight and unsafe conditions.

Applicability. A property shall be considered distressed if it meets one or more of the following criteria:

- a. The property is declared a nuisance upon the inspection of the City's Code Enforcement Officer; or
- b. The property shows clear and convincing signs of neglect and distress and being a nuisance to adjoining or adjacent properties.

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.

Building means a structure which is designed, built or occupied as a shelter or roofed enclosure for persons, animals, property; or a shelter located on a foundation or other support and used for residential, business, mercantile, storage, commercial, professional, industrial, institutional, assembly, educational or recreational purposes.

Distressed means a property that is declared to be a nuisance or neglected.

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.

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.

Structure means anything constructed, installed or portable, the use of which requires a location on land. It includes a movable structure while on land which can be used for housing, business, commercial, agricultural, or office purposes, whether temporarily or permanently. Structure also includes, but is not limited to, fences, tiki or chikee huts and the like, swimming pools, poles, pipelines, transmission lines, game courts and tracks.

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

SECTION 3. The Code of Ordinances of the City of Sanibel, Chapter 126, Article XIV, is hereby amended to add a new Section 126-1312 Maintenance and Security Standards with underlining indicating added language, as follows:

Section 126-1312. Maintenance and Security Standards.

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. All front, side, and rear yard areas shall be free of litter, refuse and debris as defined in Sections 30-31, 30-34 and 30-36 of the Sanibel Code.
3. Pools, fountains, hot tubs and spas shall be maintained so the water contained within in them remains free and clear of hazards, pollutants, debris, fungal or plant growth and shall not produce noxious odors nor act as 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.
4. The exterior of a structure shall be kept and 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 becomes 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 with paint to prevent deterioration.
5. 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.
6. Every exterior stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained and kept in sound condition and good repair.
7. The roof, siding, awnings, chimneys, sheds, and other exterior structural elements of a property shall be kept and maintained in good repair and anchored in such a manner as not to become flying projectile in high winds.

Security Requirements

1. Properties that are determined to be abandoned or vacant upon inspection shall be kept in a secure manner so as to be kept inaccessible to wildlife or unauthorized persons. A secure manner shall include, but not be limited to, the closure and locking of all windows, doors, gates and other building or structure openings of such size that may allow access the interior of a building or structure. Broken doors and windows shall be secured and repaired or completely replaced 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 4. The Code of Ordinances of the City of Sanibel, Chapter 126, Article XIV, is hereby amended to add a new Section 126-1313 Notice of Violation, Abatement Plan and Appeal Procedures with underlining indicating added language, as follows:

Section 126-1313 Notice of Violation, Abatement Plan and Appeal Procedures

Notice of Violation. A violation of this Ordinance shall be enforced pursuant to Section 1-15 of the Sanibel Code of Ordinance.

Abatement Plan

1. Should the requested items to be remedied become very costly or extensive to perform, the property 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 including, but not limited to, excessive costs or extensive work to remedy; and
 - b. A detail plan describing each item to be remedied; and
 - c. A timeline for completing each item to be remedied.
2. The Planning Department shall review the application and either approve, deny, or modify the abatement plan within fourteen (14) 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 fourteen (14) days of the issuance of an approved abatement plan. Failure to do so shall render the approved abatement plan null and void.

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

SECTION 5. Codification.

This ordinance shall be an amendment to the Code of Ordinances of the City of Sanibel, Chapter 126, adding a new Division 17 Distressed Properties and adding new Sections 126-1311, 126-1312 and 126-1313.

SECTION 6. 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 7. 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 8. 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 _____, 2013.