

CITY OF SANIBEL

ORDINANCE NO. 13-010

AN ORDINANCE AMENDING THE SANIBEL CODE OF ORDINANCES, AMENDING SUBPART B, LAND DEVELOPMENT CODE, CHAPTER 82 ADMINISTRATION, ARTICLE III PLANNING COMMISSION, DIVISION 3., SPECIFIC AUTHORITY, SUBDIVISION VII. AMENDMENTS, SECTION 82-241 - AMENDMENTS TO LAND DEVELOPMENT CODE OR ZONING DISTRICT BOUNDARIES, BY DENOTING EXISTING CONTENT AS SUBSECTION (a) AND ADDING A NEW SUBSECTION (b) WITH SUB-SUBSECTIONS (1) PURPOSE; (2) PROCEDURES; AND (3) FINDINGS TO ESTABLISH A PROCESS FOR CONSIDERING NEW PERMITTED AND CONDITIONAL COMMERCIAL USES WHEN THEY ARE FOUND TO BE SIMILAR TO AN EXISTING PERMITTED OR CONDITIONAL COMMERCIAL USE THAT IS LISTED; AND AMENDING SEC. 90-368.APPLICATION TO AMEND TEXT OF LAND DEVELOPMENT CODE; ALLOWING FOR INITIAL APPLICATION FEES TO BE WAIVED FOR AN AMENDMENT TO CHAPTER 126 ZONING, ARTICLE VIII COMMERCIAL DISTRICTS, DIVISION 2, LIST OF PERMITTED USES AND CONDITIONAL USES; AND AMENDING CHAPTER 126 ZONING, ARTICLE VIII COMMERCIAL DISTRICTS, DIVISION 2, GC GENERAL COMMERCIAL DISTRICT, SEC. 126-491.PERMITTED USE; ADDING ADDITIONAL USES TO THE LIST; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, supporting local, island-serving businesses is an important goal of the City of Sanibel and the Sanibel Plan; and

WHEREAS, the City Council adopted the GC General Commercial District schedule of permitted uses and conditional uses intended to serve the needs of Sanibel residents; and

WHEREAS, the City Council desires to not exclude uses when they primarily serve the residents of Sanibel if they are found to be similar in character, size, intensity and impact as those listed in the schedule of permitted and conditional uses of the GC - General Commercial, TC - Town Center, and TCL – Town Center Limited Commercial Districts; and

WHEREAS, the City Council also desires to establish an amended review process to facilitate inclusion of appropriate permitted and conditional uses which serve the needs of Sanibel residents and visitors, and which are not listed in the schedule of permitted and conditional uses; and

WHEREAS, a procedure has been established to revise and amend the Land Development Code, in a manner consistent with the Sanibel Plan; and

WHEREAS, such revisions have been referred to the Planning Commission for a recommendation as to the consistency with the Sanibel Plan; and

WHEREAS, the Planning Commission recommended that the City Council adopt a review process for considering new permitted and conditional uses, for inclusion in the existing schedule of permitted and conditional uses, when they are found to be similar in character, nature, size and intensity as those commercial uses that are listed in the schedule of permitted and conditional uses; and

WHEREAS, the Planning Commission recommended that the City Council adopt a waiver of the application and hearing fees associated with amending the lists of permitted and conditional uses, when said uses are found to be similar in character, size, intensity and impact as those listed in the schedule of permitted and conditional uses; and

WHEREAS, the Planning Commission also recommended that the City Council add the following uses: Professional Studios involving the teaching of dance and fine arts; Home Inspection and Home Watch Services; and Office Sharing to the current schedule of permitted uses; and

WHEREAS, the City Council deems it necessary to make such revision to the Land Development Code, as contained in this ordinance; and

WHEREAS, all required public notices and public hearings for this amendment have been properly given and held.

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

SECTION 1. The Code of Ordinances of the City of Sanibel, Subpart B - LAND DEVELOPMNET CODE; Chapter 82 - ADMINISTRATION; ARTICLE II. - PLANNING COMMISSION; DIVISION 3.-SPECIFIC AUTHORITY; Subdivision VII. Amendments is hereby amended by denoting existing content as Part (a) and adding a new Part (b) with Subsections (1) *Purpose*; (2) *Procedures*; and (3) *Findings*, to establish a process for considering new Permitted and Conditional Commercial Uses if they are found to be similar to an existing Permitted or Conditional Commercial Use that is listed; with underlining indicating additions as follows:

Land Development Code Section 82-241. Amendments to Land Development Code or zoning district boundaries

(a) The planning commission may recommend to the city council amendments to zoning district boundaries or to permitted uses or other regulations of this Land Development Code, in accordance with the following standards:

- (1) The planning commission shall make reference to the Sanibel Plan to determine if the proposed amendment to the land development regulations is consistent with the intent and purpose of the Sanibel Plan.
- (2) The planning commission shall determine whether the proposed amendment:
 - a. Will encourage the most appropriate use of land and city resources, consistent with the public interest;
 - b. Will prevent the overcrowding of land and avoid the undue concentration of population;
 - c. Will adversely affect the development of adequate and efficient provisions for transportation, water, sewage, schools, parks, recreation facilities, and the environmental, social and economic resources of the city;
 - d. Will adversely affect the character and stability of the present and future land use and development of the community;
 - e. Will adversely affect orderly growth and development;
 - f. Will preserve, promote, protect and improve the public health, safety and general welfare of the community; and
 - g. Is consistent with the City Charter.
- (3) If the planning commission determines that a proposed amendment is inconsistent with the Sanibel Plan or its intent and purpose, the planning commission may, nevertheless, recommend approval of the proposed amendment, along with a corresponding amendment to the Sanibel Plan, if the planning commission determines that the proposed amendment should be approved based upon a consideration of all of the factors specified in subsection (2) of this section.

(b) The planning commission may recommend to the city council amendments to add new permitted and conditional uses that are similar to the existing list of permitted and conditional uses of this Land Development Code, in accordance with the following standards:

- (1) Purpose: The purpose of this section is to establish procedures to amend the list of commercial permitted uses and conditional uses to include new uses when they are found to be similar in nature, character and intensity to those existing uses or listed uses; and to

establish a review process with waived fees to encourage appropriate amendments meeting this criterion. The City of Sanibel recognizes that not all compatible or low-impact uses may be anticipated or included in the list of permitted and conditional uses, that application fees can be prohibitive to some citizens and small businesses that have a need to establish a particular use within a reasonable amount of time, and that review of amendments can be lengthy and discouraging to appropriate uses and businesses which may be considered compatible with the Sanibel Plan and the intent of the zoning district.

(2) *Procedures:*

- a. Amendments: Amendments may be submitted by filing an application to amend the Land Development Code list of permitted and conditional commercial uses, specifically, General Commercial as found in Sec. 126-491 and Sec. 126-492 of the Land Development Code; Town Center General, as found in Sec. 126-511 and 126-512; and the Town Center Limited, as found in Sec. 531 and Sec. 532.
- b. Application: An application for amendment to the LDC is required. Applications shall be made to the City Manager, or the Manager's designee, on a form prescribed by the City manager. The form shall be accompanied by:
 1. A summary of the conditions warranting the amendment and why the inclusion of the specified use would benefit the applicant and the City if approved.
 2. Supplementary information explaining the nature of the use, the intent by the property owner to establish such use, and may include any general or technical information which would have bearing on the establishment of such use. This may also include examples of the intended use similarity to uses in other communities, and technical specifications, if any, for the intended use.

(3) Findings:

a. The following findings shall be considered and made as part of the procedure to amend the list of permitted uses:

- 1) A finding that the proposed use or uses will be consistent with the Sanibel Plan.
- 2) A finding that the intent of the GC General Commercial, Town Center General and Town Center Limited Commercial Districts will be met by adding the use to the list of Permitted or Conditional Uses, and that the proposed use is similar in nature, character, size and intensity to uses or conditional uses already established in these commercial district, or could be if established as a conditional use.

Approval of the proposed use and inclusion in the list of permitted and conditional uses is not an exemption to, or approval of, any development permit or conditional use application which must normally be filed after the establishment of the proposed use

SECTION 2. The Code of Ordinances of the City of Sanibel, Chapter 90 Fees, Article IV. Public Hearings, Division 3. Land Development Code, Sec. 90-368. Application to amend text of Land Development Code Is hereby amended with additional text waiving fees for an amendment to the permitted and conditional commercial use list of Chapter 126 Zoning, Article XIV Supplementary District Regulations, Division 5 Commercial Uses Generally, with underlining indicating additions as follows:

Sec. 90-368. Application to amend text of Land Development Code.

The fee for an application to amend the text of the Land Development Code (chapter 82, article IV) shall be \$5,539.00 for the first section of the Land Development Code amended, plus \$1,013.00 for each additional section included with the same application. Fees for an amendment to Chapter 126 Zoning, Article VIII Commercial Districts, Division 2, list of Permitted Uses and Conditional Uses will be waived for the initial application.

SECTION 3. The Code of Ordinances of the City of Sanibel, Chapter 126 Zoning, Article VIII Commercial Districts, Division 2, GC General Commercial District, Sec. 126-491. Permitted Uses, (a) Primary intended uses is hereby amended by adding additional uses to the List of Permitted Uses, with underlining indicating additions as follows:

- (1) Accounting, auditing and bookkeeping services.
- (2) Advertising agents.
- (3) Animal training and grooming services.
- (4) Apparel and apparel accessories stores (retail).
- (5) Appraisers.
- (6) Architectural, engineering and surveying services.
- (7) Artists' studios (retail).
- (8) Auctioneering services.
- (9) Auto and home supply stores (retail).
- (10) Bait and tackle shops (retail).
- (11) Banks.
- (12) Barber shops.
- (13) Beauty shops.
- (14) Bicycle shops (retail).
- (15) Blueprinting and photocopying services.
- (16) Book stores (retail).
- (17) Building contractors and subcontractors.
- (18) Building materials stores (retail).
- (19) Business associations.
- (20) Cablevision services.
- (21) Camera and photographic supply stores (retail).
- (22) Candy, nut and confectionery stores (retail).
- (23) Carpet and upholstery cleaning.
- (24) Child care services.
- (25) Children's and infant's wear stores (retail).
- (26) Cleaning and maintenance services.
- (27) Commercial art galleries (retail).
- (28) Commercial photography.
- (29) Communication services.
- (30) Computer services.
- (31) Credit institutions.
- (32) Dairy products stores (retail).
- (33) Detective agencies and protective services.
- (34) Developers.
- (35) Disinfecting and exterminating services.
- (36) Drug stores and pharmacies (retail).
- (37) Florists (retail).
- (38) Fruit and vegetable markets (retail).
- (39) Funeral homes and parlors.
- (40) Furniture and wood products, manufacturing.
- (41) Furniture stores (retail).
- (42) Garment pressing, and agents, laundries and dry cleaning.
- (43) Gift, novelty, and souvenir shops, including shell shops (retail).
- (44) Hand painting and printing of textiles.
- (45) Hardware stores (retail).
- (46) Health clubs or spas.
- (47) Hobby, toy and game stores (retail).
- (48) Home inspection and Home Watch Services.

- (49) Household appliance stores (retail).
- (50) Insurance agents.
- (51) Interior decorators.
- (52) Jewelry stores (retail).
- (53) Landscape and horticultural services.
- (54) Legal services.
- (55) Linen supply.
- (56) Liquor stores (retail).
- (57) Luggage and leather goods stores (retail).
- (58) Mail order houses and distributors.
- (59) Management, consulting and public relation services.
- (60) Mortgage bankers and brokers.
- (61) Music stores (retail).
- (62) News dealers (retail).
- (63) Notary publics.
- (64) Offices of dentists.
- (65) Offices of health practitioners.
- (66) Offices of physicians.
- (67) Office sharing.
- (68) Office supply stores (retail).
- (69) Optical goods stores (retail).
- (70) Packaging and labeling services.
- (71) Paint, glass and wallpaper stores (retail).
- (72) Pet food stores (retail).
- (73) Pet shops (retail).
- (74) Printing, publishing and allied industries.
- (75) Professional membership organizations.
- (76) Professional Studios involving the teaching of dance, and fine arts.
- (77) Radio and television stores (retail).
- (78) Real estate agents and managers.
- (79) Religious goods stores (retail).
- (80) Repair shops.
- (81) Retail bakeries (retail).
- (82) Retail nurseries, lawn and garden supply stores (retail).
- (83) Re-upholstery and furniture repair.
- (84) Savings and loan associations.
- (85) Security brokers and services.
- (86) Sewing, needlework, and piece goods stores (retail).
- (87) Shoe stores (retail).
- (88) Sign painting and lettering shops.
- (89) Sporting goods stores (retail).
- (90) Stationery and card stores (retail).
- (91) Swimming pool cleaning and maintenance.
- (92) Tailoring and dressmaking services.
- (93) Taxicab services.
- (94) Telephone message services.
- (95) Title abstract offices.
- (96) Tobacco shops (retail).

- (97) Tool and equipment rental.
- (98) Travel agents.
- (99) Uniform supply stores.
- (100) Used merchandise stores (retail).
- (101) Veterinary services.
- (102) Video equipment and tapes, sales and rentals (retail).
- (103) Warehousing and storage.

SECTION 4. Codification.

This ordinance shall be an amendment to the Code of Ordinances of the City of Sanibel. In Chapter 114 of Subpart B of Part II of the Sanibel Code of Ordinances, Section 114-106 of Article II is hereby amended.

SECTION 5. 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 6. 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 7. Effective date.

This ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this _____ day of _____, 2013

AUTHENTICATION:

Kevin Ruane, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM:

Kenneth B. Cuyler

Kenneth B. Cuyler, City Attorney

10/29/13

Date

Publication and Hearing Dates:

Section 163, F.S. Publication Date: _____, 2013

Date of First Public Hearing: _____, 2013

Section 163, F.S. Publication Date: _____, 2013

Ordinance Publication Date: _____, 2013

Date of Second Public Hearing: _____, 2013

Vote of Council Members:

Ruane _____

Congress _____

Denham _____

Harrity _____

Jennings _____

Date filed with the City Clerk: _____

RESOLUTION NO. 13-19

CITY OF SANIBEL
PLANNING COMMISSION

A RESOLUTION RECOMMENDING THAT CITY COUNCIL APPROVE AN ORDINANCE AMENDING THE SANIBEL CODE OF ORDINANCES; AMENDING SUBPART B, LAND DEVELOPMENT CODE, CHAPTER 82 ADMINISTRATION, ARTICLE III PLANNING COMMISSION, DIVISION 3., SPECIFIC AUTHORITY, SUBDIVISION VII. AMENDMENTS, SECTION 82-241 - AMENDMENTS TO LAND DEVELOPMENT CODE OR ZONING DISTRICT BOUNDARIES, BY DENOTING EXISTING CONTENT AS SUBSECTION (a) AND ADDING A NEW SUBSECTION (b) WITH SUB-SUBSECTIONS (1) PURPOSE; (2) PROCEDURES; AND (3) FINDINGS TO ESTABLISH A PROCESS FOR CONSIDERING NEW PERMITTED AND CONDITIONAL COMMERCIAL USES WHEN THEY ARE FOUND TO BE SIMILAR TO AN EXISTING PERMITTED OR CONDITIONAL COMMERCIAL USE THAT IS LISTED; AND AMENDING SEC. 90-368.APPLICATION TO AMEND TEXT OF LAND DEVELOPMENT CODE; ALLOWING FOR INITIAL APPLICATION FEES TO BE WAIVED FOR AN AMENDMENT TO CHAPTER 126 ZONING, ARTICLE VIII COMMERCIAL DISTRICTS, DIVISION 2, LIST OF PERMITTED USES AND CONDITIONAL USES; AND AMENDING CHAPTER 126 ZONING, ARTICLE VIII COMMERCIAL DISTRICTS, DIVISION 2, GC GENERAL COMMERCIAL DISTRICT, SEC. 126-491.PERMITTED USE; ADDING ADDITIONAL USES TO THE LIST; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a public hearing on the pending ordinance addressing Amendment of Permitted and Conditional Uses was legally and properly advertised and held on and September 10, 2013 before the Sanibel Planning Commission; and

WHEREAS, the Planning Commission has heard and considered comments and recommendations from the Planning Department staff and public; and

WHEREAS, the Planning Commission finds the proposed amendment to be consistent with the Sanibel Plan; and

WHEREAS, the Planning Commission may recommend to the City Council amendments to regulations of the Land Development Code, in accordance with the following standards, as set forth in LDC Section 82-241:

- (1) *The Planning Commission shall make reference to the Sanibel Plan to determine if the proposed amendment to the land development regulations is consistent with the intent and purpose of the Sanibel Plan.*
- (2) *The Planning Commission shall determine whether the proposed amendment:*
 - a. *Will encourage the most appropriate use of land and City resources, consistent with the public interest;*
 - b. *Will prevent the overcrowding of land and avoid the undue concentration of population;*

- c. Will adversely affect the development of adequate and efficient provisions for transportation, water, sewage, schools, parks, recreation facilities, and the environmental, social and economic resources of the city;
- d. Will adversely affect the character and stability of the present and future land use and development of the community;
- e. Will adversely affect orderly growth and development;
- f. Will preserve, promote, protect and improve the public health, safety and general welfare of the community; and
- g. Is consistent with the City Charter.

(3) If the Planning Commission determines that a proposed amendment is inconsistent with the Sanibel Plan or its intent and purpose, the Planning Commission may, nevertheless, recommend approval of the proposed amendment, along with a corresponding amendment to the Sanibel Plan, if the Planning Commission determines that the proposed amendment should be approved based upon a consideration of all of the factors specified in subsection (2) of this section.

NOW THEREFORE, BE IT RESOLVED, that the Planning Commission recommends that the City Council adopt said Ordinance No. 13 - 010 , the title of which is provided in this Resolution.

The foregoing Resolution was adopted by the Planning Commission upon a motion by Chair Valiquette and seconded by Commissioner Ketteman and the vote was as follows:

Chris Heidrick	<u>Yes</u>	Holly Smith	<u>Yes</u>
Chuck Ketteman	<u>Yes</u>	John Talmage	<u>Yes</u>
Tom Krekel	<u>Yes</u>	Michael Valiquette	<u>Yes</u>
Phillip Marks	<u>Yes</u>		

DULY PASSED AND ADOPTED this 10th day of September 2013 .

SANIBEL PLANNING COMMISSION

Signed:  10/22/2013
 Michael Valiquette, Planning Commission Chair Date Signed

Approved As To Form:  10/22/2013
 Kenneth B. Cuyler, City Attorney Date Signed

Date Filed With City Manager: 10/22/2013



City of Sanibel

Planning Department

STAFF REPORT

Planning Commission Meeting
Planning Commission Agenda Item
Application Number
Applicant Name:

September 10, 2013
7
13-7538 LDC
City of Sanibel

**RE: Draft Ordinance Establishing Procedures for Amending the List of Permitted and Conditional Commercial Uses as Submitted by the City of Sanibel
Application No. 13-7538 LDC**

PROPOSAL

A draft ordinance for providing procedures for amending the list of permitted and conditional uses and amending the list of permitted commercial uses. A copy of the draft ordinance (no. **13-7538 LDC** – Draft) is provided with this staff report as **Attachment A**.

ANALYSIS

The attached ordinance was drafted to include the Planning Commission's direction at their August 27, 2013 meeting.

The Planning Commission may recommend to the City Council, amendments to zoning district boundaries or to permitted uses or other regulations of this Land Development Code, in accordance with the following standards:

- (1) The Planning Commission shall make reference to the Sanibel Plan to determine if the proposed amendment to the land development regulations is consistent with the intent and purpose of the Sanibel Plan.
- (2) The Planning Commission shall determine whether the proposed amendment:
 - a. Will encourage the most appropriate use of land and city resources, consistent with the public interest;

- b. Will prevent the overcrowding of land and avoid the undue concentration of population;
 - c. Will adversely affect the development of adequate and efficient provisions for transportation, water, sewage, schools, parks, recreation facilities, and the environmental, social and economic resources of the city;
 - d. Will adversely affect the character and stability of the present and future land use and development of the community;
 - e. Will adversely affect orderly growth and development;
 - f. Will preserve, promote, protect and improve the public health, safety and general welfare of the community; and
 - g. Is consistent with the City Charter.
- (3) If the planning commission determines that a proposed amendment is inconsistent with the Sanibel Plan or its intent and purpose, the planning commission may, nevertheless, recommend approval of the proposed amendment, along with a corresponding amendment to the Sanibel Plan, if the planning commission determines that the proposed amendment should be approved based upon a consideration of all of the factors specified in subsection (2) of this section.

RECOMMENDATION

If the Planning Commission finds that the proposed draft ordinance is consistent with the Sanibel Plan then the draft ordinance should be forwarded to City Council for adoption.

DRAFT

CITY OF SANIBEL

ORDINANCE NO. ____ - ____

AN ORDINANCE AMENDING THE SANIBEL CODE OF ORDINANCES, SUBPART B, LAND DEVELOPMENT CODE, CHAPTER 82 ADMINISTRATION, ARTICLE III PLANNING COMMISSION, DIVISION 3., SPECIFIC AUTHORITY, SUBDIVISION VII. AMENDMENTS, SECTION 82-241 - AMENMENTS TO LAND DEVELOPMENT CODE OR ZONING DISTRICT BOUNDARIES, BY ADDING A NEW SUBSECTION (4), TO ESTABLISH A PROCESS FOR CONSIDERING NEW PERMITTED AND CONDITIONAL COMMERCIAL USES IF THEY ARE FOUND TO BE SIMILAR TO AN EXISTING PERMITTED OR CONDITIONAL COMMERCIAL USE THAT IS LISTED; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, supporting local, island-serving businesses is an important goal of the City of Sanibel and the Sanibel Plan; and

WHEREAS, the City Council, adopted the GC General Commercial District schedule of permitted uses and conditional uses intended to serve the needs of Sanibel residents; and

WHEREAS, the City Council, desires to not exclude uses when they primarily serve the residents of Sanibel if they are found to be similar in character, size, intensity and impact as those listed in the schedule of permitted and conditional uses of the GC - General Commercial, TC - Town Center, and TCL – Town Center Limited Commercial Districts; and

WHEREAS, the City Council also desires to establish an amended review process to facilitate inclusion of appropriate permitted and conditional uses which serve the needs of Sanibel residents and visitors, and which are not listed in the schedule of permitted and conditional uses; and

WHEREAS, a procedure has been established to revise and amend the Land Development Code, in a manner consistent with the Sanibel Plan; and

WHEREAS, such revisions have been referred to the Planning Commission for a recommendation as to the consistency with the Sanibel Plan; and

WHEREAS, the Planning Commission recommended that the City Council adopt a review process for considering new permitted and conditional uses, for inclusion in the existing schedule of permitted and conditional uses, when they are found to be similar in character, nature, size and intensity as those commercial uses that are listed in the schedule of permitted and conditional uses, and

WHEREAS, the Planning Commission recommended that the City Council adopt a waiver of the application and hearing fees associated with amending the lists of permitted and conditional uses, when said uses are found to be similar in character,

size, intensity and impact as those listed in the schedule of permitted and conditional uses; and

WHEREAS, the Planning Commission also recommended that the City Council add the following uses: Professional Studios involving the teaching of dance and fine arts; Home Inspection and Home Watch Services; and Office Sharing to the current schedule of permitted uses; and

WHEREAS, a procedure has been established to revise and amend the Land Development Code in a manner consistent with the *Sanibel Plan*; and

WHEREAS, the City has reviewed the adequacy of amending the list of permitted and conditional commercial use; and

WHEREAS, such revisions have been referred to the Planning Commission for a recommendation as to the consistency of this amendment with the *Sanibel Plan*; and

WHEREAS, the City Council deems it necessary to make such revision to the Land Development Code, as contained in this ordinance; and

WHEREAS, all required public notices and public hearings for this amendment have been properly given and held.

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

SECTION 1. The Code of Ordinances of the City of Sanibel, Chapter 126 Zoning, Article VIII Commercial Districts, Division 2, GC General Commercial District, is hereby amended by adding new Section 82-244 Amendments to List of Permitted and Conditional Commercial Uses, with underlining indicating additions as follows:

Land Development Code Section 82-244 Amendments to List of General Commercial Permitted Uses and Conditional Uses

- (1) Purpose: The purpose of this section is to establish procedures to amend the list of commercial permitted uses and conditional uses to include new uses when they are found to be similar in nature, character and intensity to those existing uses or listed uses; and to establish a review process with waived fees to encourage appropriate amendments meeting this criterion. The City of Sanibel recognizes that not all compatible or low-impact uses may be anticipated or included in the list of permitted and conditional uses, that application fees can be prohibitive to some citizens and small businesses that have a need to establish a particular use within reasonable amount of time, and that review of amendments can be lengthy and discouraging to appropriate uses and businesses which may be considered compatible with the Sanibel Plan and the intent of the zoning district.

(2) Procedures:

- a. Amendments: Amendments may be submitted by filing an application to amend the Land Development Code list of permitted and conditional commercial uses, specifically, General Commercial as found in Sec. 126-491 and Sec. 126-492 of the Land Development Code; Town Center General, as found in Sec. 126-511 and 126-512; and the Town Center Limited, as found in Sec. 531 and Sec. 532.
- b. Application: An application for amendment to the LDC is required. Applications shall be made to the City Manager, or the Manager's designee, on a form prescribed by the City manager. The form shall be accompanied by:
 - (a) A summary of the conditions warranting the amendment and why the inclusion of the specified use would benefit the applicant and the City if approved.
 - (b) Supplementary information explaining the nature of the use, the intent by the property owner to establish such use, and may include any general or technical information which would have bearing on the establishment of such use. This may also include examples of the intended use similarity to uses in other communities, and technical specifications, if any, for the intended use.

(3) Additional Findings:

- (a) A finding that the proposed use or uses will be consistent with the Sanibel Plan.
- (b) A finding that the intent of the GC General Commercial, Town Center General and Town Center Limited Commercial Districts will be met by adding the use to the list of Permitted or Conditional Uses, and that the proposed use is similar in nature, character, size and intensity to uses or conditional uses already established in these commercial district, or could be if established as a conditional use.

Approval of the proposed use and inclusion to the list of permitted and conditional uses is not an exemption to, or approval of, any development permit or conditional use application which must normally be filed after the establishment of the proposed use.

SECTION 2. The Code of Ordinances of the City of Sanibel, Chapter 90 Fees, Article IV. Public Hearings, Division 3. Land Development Code, Sec. 90-368. Application to amend text of Land Development Code. Is hereby amended with additional text waiving fees for an amendment to the permitted and conditional commercial use list of Chapter 126 Zoning, Article XIV Supplementary District Regulations, Division 5 Commercial Uses Generally, with underlining indicating additions as follows:

Sec. 90-367. Application to amend text of Land Development Code.

The fee for an application to amend the text of the Land Development Code (chapter 82, article IV) shall be \$4,539.00 for the first section of the Land Development Code amended, plus \$1,013.00 for each additional section included with the same application. Fees for an amendment to Chapter 126 Zoning, Article VIII Commercial Districts, Division 2, list of Permitted Uses and Conditional Uses will be waived for the initial application.

SECTION 3. The Code of Ordinances of the City of Sanibel, Chapter 126 Zoning, Article VIII Commercial Districts, Division 2, GC General Commercial District, Sec. 126-491. Permitted Uses, (a) Primary intended uses is hereby amended by adding additional uses to the List of Permitted Uses, with underlining indicating additions as follows:

- (48) Home inspection and Home Watch Services.
- (67) Office sharing
- (77) Professional Studios involving the teaching of dance, and fine arts.

SECTION 4. Codification.

This ordinance shall be an amendment to the Code of Ordinances of the City of Sanibel. In Chapter 114 of Subpart B of Part II of the Sanibel Code of Ordinances, Section 114-106 of Article II is hereby amended.

SECTION 5. 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 6. 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 7. 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

AUTHENTICATION: _____
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney Date

Publication and Hearing Dates:

Section 163, F.S. Publication Date: _____, 2013

Date of First Public Hearing: _____, 2013

Section 163, F.S. Publication Date: _____, 2013

Ordinance Publication Date: _____, 2013

Date of Second Public Hearing: _____, 2013

Vote of Council Members:

Ruane _____

Congress _____

Denham _____

Harrity _____

Jennings _____

Date filed with the City Clerk: _____