CITY OF SANIBEL

ORDINANCE 14-003

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, SUBPART B LAND DEVELOPMENT CODE, CHAPTER 126 ZONING, ARTICLE V NONCONFORMANCES, DIVISION 2 USES, SECTION 126-152 (NONCONFORMING USES) EXCEPTIONS AND PROHIBITIONS BY ADDING LANGUAGE TO ALLOW MINOR NONSTRUCTURAL ALTERATIONS TO LAWFULLY EXISTING STRUCTURES DEVOTED TO A NONCONFORMING USE AND TO ALLOW MODIFICATIONS TO THE ROOFLINES OF LAWFULLY EXISTING STRUCTURES DEVOTED TO A NONCONFORMING USE; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has adopted a Land Development Code to implement the goals, objectives and limitations of the Comprehensive Land Use Plan; and

WHEREAS, regulations have been adopted to allow for the rehabilitation or reconstruction of aging buildings in the Resort Housing District to improve building safety by complying with the Building Code and flood requirements, to provide opportunities for the upgrading of resort accommodations and to encourage the retention of short-term rental units; and

WHEREAS, there exist within the Resort Housing District structures that are located partially or entirely within the Gulf Beach Ecological Zone and that are nonconforming uses within this preservation zone; and

WHEREAS, a limited number of other structures exist throughout the City that are devoted to uses nonconforming to the zones or districts in which they are located; and

WHEREAS, it is desirable to allow property owners to make limited cosmetic, architectural, or structural improvements to these structures that are not currently allowed under the Land Development Code; and

WHEREAS, this ordinance does not increase the permitted height of a building or buildings as established in the Sanibel Plan; and

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

WHEREAS, the City Council deems it necessary to make such revisions, as contained in this ordinance; and

WHEREAS, all required public notices and public hearings for such revisions have been properly given and held; and

WHEREAS, such revisions have been referred to the Planning Commission for a recommendation as to the consistency of such revisions with the Comprehensive Land Use Plan;

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

SECTION 1. The Code of Ordinances, Subpart B Land Development Code, Chapter 126 Zoning, Article V Nonconformances, Division 2 Uses, Section 126-152 (Nonconforming uses) exceptions and prohibitions, is hereby amended with underlining indicating added language and ~~strikethroughs~~ indicating deletions, as follows:

Section 126-152. - (Nonconforming uses) exceptions and prohibitions.

(a) No existing structure devoted to a use not permitted in the district in which it is located shall be improved, enlarged, extended, moved, or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located. The following exceptions, however, shall be permitted~~, subject to the following exceptions~~:

. . .

(2) Alterations within the existing perimeter, i.e., three-dimensional outline, of the structure, which, in conjunction with prior repairs, rehabilitations or alterations do not amount to a substantial improvement, as defined in chapter 94~~;~~, and including modifications to the existing three-dimensional outline of the structure that are:

a. Minor, cosmetic, nonstructural alterations to the side or front of the structure, such as awnings or decorative architectural features, provided that such alterations do not extend beyond the footprint of the structure and lawfully existing appurtenances attached to the structure; provided that no usable floor area is added; and provided that no other regulation contained in this Land Development Code, and to which the structure does not conform, is violated.

b. The addition of decorative dormers or other architectural features if they project from a single existing roof plane and if they do not:

i. Exceed a total of 35 percent of the length of the roof plane from which they project;

ii. Exceed 50 percent of the vertical height of the roof plane from which they project;

iii. Project above the top of the roof from which they project;

iv. Project beyond the existing eave line; and

v. Provide additional usable floor area.

Measurement of such features shall be at their widest and tallest dimensions. Measurement of the roof plane shall be along the eave line. Calculations shall be as seen from the same elevation view.

SECTION 2. Codification.

The city manager is hereby authorized and directed to cause the amendment approved herein to be incorporated into the adopted Land Development Code.

SECTION 3. Conflict. 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 4. 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 5. 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 _____, 2014.

AUTHENTICATION:

Kevin Ruane, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: _____ 4/18/14

Kenneth B. Cuyler, City Attorney

Date

Vote of Council Members:

Ruane _____
Congress _____
Denham _____
Harrity _____
Jennings _____

First Reading _____
Publication Date _____
Second Reading _____

Date Filed with City Clerk: _____