

**CITY OF SANIBEL**

**ORDINANCE NO. 19-007**

**AN ORDINANCE AMENDING THE SANIBEL CODE OF ORDINANCES, CHAPTER 126 – ZONING; AMENDING ARTICLE XIV – SUPPLEMENTARY DISTRICT REGULATIONS; AMENDING DIVISION 7 – RESORT HOUSING; ADDING SECTION 126-1075 – DEFINITIONS; ADDING SECTION 125-1077 INITIAL REGISTRATION OF DWELLING RENTALS; ADDING SECTION 125-1078 DWELLING RENTAL LICENSE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 126-1076, Sanibel Code of Ordinances, provides that permitted resort housing dwelling units in compliance with the Code have no limit to the frequency of change or length of stay of occupants or tenants, while other dwelling units may not be made available for rental for periods of less than four consecutive weeks;

**WHEREAS**, illegal rentals in violation of the Code frustrate the City’s efforts to preserve the character and quality of the island and its neighborhoods, as rapid turnover in occupancy can be a disruptive influence on the peaceful use and enjoyment of neighboring properties, including diminished public safety, excessive noise, increased on-street parking, and excessive use and impact on public services and public works;

**WHEREAS**, the enforcement of existing regulation of dwelling unit rentals poses a significant challenge to the City, particularly with the growth of online rental platforms;

**WHEREAS**, the City Council recognizes that its current efforts to identify those in violation of its existing rental regulation of dwelling units is only identifying a fraction of those in violation;

**WHEREAS**, Section 18-35(3), Sanibel Code of Ordinances, already provides that a local business tax receipt is required of anyone “[r]enting any real property for commercial or residential purposes or advertising any real property for such rental”;

**WHEREAS**, the City Council desires to establish a more thorough registration and licensure of all dwelling units being rented or advertised for rent, to facilitate more efficient enforcement of Section 126-1076, Sanibel Code of Ordinances.

**WHEREAS**, these regulations are deemed necessary by the City Council to preserve the City’s neighborhoods, as well as its aesthetic and property values, while also protecting the health, safety and general welfare of residents, property owners, investors and visitors alike; and

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

**SECTION 1.** The "Whereas" clauses above are true and correct and made a part hereof.

**SECTION 2.** Sanibel Code of Ordinances Chapter 126 – ZONING, Article XIV – SUPPLEMENTARY DISTRICT REGULATIONS, Division 7 – RESORT HOUSING, is hereby amended with ~~striketrough~~ language indicating deletions and underlined language indicating additions as follows:

**DIVISION 7. - RESORT HOUSING DWELLING RENTAL**

**Sec. 126-1075. - Definitions.**

The following terms and phrases, whether or not in capitalized text, when used in this division will have the following meanings:

Dwelling unit has the same meaning as provided in F.S. § 83.43 (as may be amended).

Dwelling rental means a dwelling unit that is rented or advertised for rent, including limited rentals and unlimited rentals, but does not include hotel or motel rooms.

Dwelling rental use means a use of a dwelling unit that is rented, leased or exchanged.

Limited rental means a dwelling unit that has a limit to the frequency of change or length of stay of occupants or tenants.

Occupant means any lessee, tenant or other person who, for consideration, occupies a dwelling unit.

Owner means the fee simple owner of any dwelling unit as reflected by the public records of Lee County, Florida.

Property manager means any person other than an owner who is responsible for the leasing, advertising for leasing, or day-to-day maintenance and operation of a dwelling rental.

Unlimited rental means a dwelling unit that is a permitted resort housing use in compliance with this Code and has no limit to the frequency of change or length of stay of occupants or tenants.

**Sec. 126-1076. - Availability of resort housing use; evidence of use.**

- (a) Each unit of resort housing is a dwelling unit, whether denominated a hotel or motel room, apartment, condominium unit, cooperative unit, timeshare unit, single-family unit, or otherwise, including each room rented in a dwelling unit, e.g., "bed and breakfast" arrangements.

- (b) Where resort housing is a permitted use in compliance with this Code, including the requirements of article XII of this chapter, there is no limit to the frequency of change or length of stay of occupants or tenants. Where resort housing is not a permitted use or is not in compliance with this Code, including the requirements of article XII of this chapter, dwelling units may not be made available for rental for periods of less than four consecutive weeks.
- (c) The following shall be prima facie evidence that a unit is being used as resort housing:
  - (1) Advertising a unit as being available for rental for periods of less than four consecutive weeks.
  - (2) Recording or filing land use covenants, condominium declarations, cooperative documents, public offering statements, or other legal documents which sanction authorize, or approve rental of a unit for periods of less than four consecutive weeks.
  - (3) Creation of timeshare estates for periods of less than four consecutive weeks.
- (d) A violation of this section shall be punishable as a second degree misdemeanor and by a fine of up to \$500.00 per day, per unit, per violation. Code enforcement may also enforce the terms of this section by bringing the case to a special master or by citation under F.S. § 162.21 (as may be amended), and 76-435 Laws of Florida (as may be amended) or by any other means allowable by law. If a code enforcement notice of violation is issued, the fine shall be \$250.00 per day for a first offense and \$500.00 per day for a second offense. In the case of arranging of, contracting or advertising for, or the making available of, the use of a dwelling unit in violation of this section, the fines shall be computed on the basis of the number of days of rental which would have been in violation of this section.
- (e) In addition to any other remedy available to the city (including code enforcement pursuant to F.S. ch. 162). The city or any other adversely affected party may enforce the terms of this section in law or equity. Any citizen of the city may seek injunctive relief in a court of competent jurisdiction to prevent a violation of this section. Attorney's fees and costs incurred in an action to enforce these regulations concerning resort housing use(s) may be awarded to a substantially prevailing party in the discretion of the court.

**Sec. 126-1077. – Initial registration of dwelling rentals.**

- (a) Generally. Every owner of a dwelling rental within the city shall initially register the use with the city to obtain a dwelling rental license. No dwelling rental use may continue unless it has been registered in accordance with this section.
- (b) Registration. The form of the registration shall be determined by the director of the community services department and shall require the following:
  - (1) The name and contact information of the owner.
  - (2) The name and contact information of the owner's property manager, if any.
  - (3) The physical address and parcel identification number of the dwelling rental.

- (4) A copy of the city's active business tax receipt for the dwelling rental.
  - (5) A copy of all necessary county licenses or taxes, including, if applicable, evidence of the dwelling rental's active account with the Lee County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Lee County Tax Collector.
  - (6) A copy of all necessary state licenses or taxes, including the following, if applicable:
    - a. a copy of the dwelling rental's active certificate of registration with the Florida Department of Revenue for purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue; and
    - b. a copy of the dwelling rental's active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation.
  - (7) A signed and notarized acknowledgment that the owner has read and fully understands the city's rental use regulations.
- (c) Fees. Registration fees for dwelling rentals shall be established by resolution of the city council and are not required to be in equal amounts for limited rentals and unlimited rentals. The registration fee shall be paid upon submission of the registration form and documents required by this section. Funds collected from the registration fee shall be used for code compliance related to dwelling rental uses. For purposes of this section, code compliance shall also include all activities required to process the applications, inspections, and prosecutions.

**Sec. 126-1078. – Dwelling rental license.**

- (a) Generally. Every owner operating a dwelling rental use within the city must obtain a rental license and maintain the license during all terms of rental.
- (b) Initial license. Upon the city's processing and approval of a properly completed initial registration and registration fee in accordance with section 126-1077, a dwelling rental license shall be issued in the name of the owner.
- (c) Term of license. Each dwelling rental license shall have a term of one calendar year, from January 1 – December 31, and must be renewed by the owner prior to the expiration in order to avoid interruption of permitted dwelling rental activity.
- (d) Renewal. The form of the application to renew a dwelling rental license shall be determined by the director of the community services department and shall be substantially similar to the initial registration application required in this section 126-1077.
- (e) Fees. Renewal dwelling rental license fees shall be established by resolution of the city council and are not required to be in equal amounts for limited rentals and unlimited rentals. The renewal license fee shall be paid upon application for each rental license renewal. Funds collected by the renewal license fee shall be used for code compliance

related to dwelling rental uses. For purposes of this section, code compliance shall also include all activities required to process the applications, inspections, and prosecutions.

- (f) Delinquent license. Dwelling rental licenses not renewed when due and payable are delinquent and subject to a delinquency penalty of ten percent for the first month of delinquency, plus a four percent penalty for each subsequent month of delinquency until paid. However, the total delinquency penalty may not exceed 18 percent of the license fee. During the period of delinquency, the dwelling rental license is deemed inactive and no rental activity may occur. A dwelling rental that does not have its license renewed within a year of its term will be ineligible for renewal and must re-register.
- (g) License advertisement. All advertising of dwelling rentals shall require identification of city license number.
- (h) Transferability. Dwelling rental licenses are not transferrable. Upon transfer of ownership of a dwelling rental (in whole or in part), such transfer shall result in termination of the license.
- (i) Enforcement. A violation of this section shall be punishable in the same manner as described in section 126-1076.
- (j) Construction. This section shall be liberally construed to accomplish its purpose of protecting the residential character of Sanibel, the health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by Sanibel's residents of their residential property.

**SECTION 3. Codification.** This ordinance shall be deemed an amendment to the Sanibel Code of Ordinances and shall be codified in the Sanibel Code of Ordinances as such an amendment. The City Clerk is hereby authorized and directed to instruct as part of the codification that all section numbers amended by this Ordinance are updated and corrected throughout the Code of Ordinances in the event such section numbers are referenced.

**SECTION 4. Conflict.** All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, the latter shall be severed, and the remainder shall have full force and effect and be liberally construed.

**SECTION 5. Severability.** 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 6. Effective Date.** This ordinance shall become effective January 1, 2020.

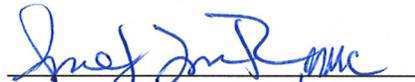
**DULY PASSED AND ORDAINED** by the Council of the City of Sanibel, Florida, this  
2nd day of October, 2019.

First Reading: September 09, 2019  
Publication: September 19, 2019  
Second Reading: October 02, 2019

**AUTHENTICATION:**

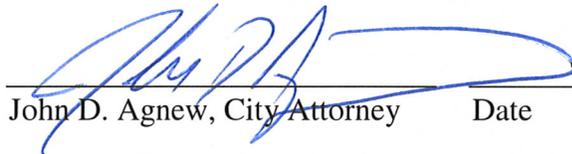


Kevin Ruane, Mayor



Pamela Smith, City Clerk

**APPROVED AS TO FORM:**



John D. Agnew, City Attorney

10/1/19  
Date

Vote of Council Members:

Ruane	<u>yea</u>
Denham	<u>yea</u>
Johnson	<u>yea</u>
Maughan	<u>yea</u>
Smith	<u>yea</u>

Date Filed with City Clerk: October 2, 2019