

6. Second Reading and Second Public Hearing

9:15 a. m.

a. **ORDINANCE 09-011 AMENDING THE CODE OF ORDINANCES, SUBPART B LAND DEVELOPMENT CODE, AMENDING CHAPTER 86 DEVELOPMENT REGULATIONS, ARTICLE II SITE PREPARATION, SECTION 86-43 APPEARANCE OF STRUCTURES; SIZE AND MASS OF STRUCTURES, TO ADD A STATEMENT OF PURPOSE, TO ADD OBJECTIVES, TO ADD A REVIEW PROCESS FOR DETERMINATION OF (LONG-FORM OR SHORT-FORM) DEVELOPMENT PERMIT APPLICATION PROCEDURE FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS; TO ADD NOTIFICATION PROCEDURES FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS; TO ADD INTERPRETIVE ARCHITECTURAL DESIGN GUIDELINES FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS, TO ADD INTERPRETIVE SITE PLANNING DESIGN GUIDELINES FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS, TO ADD PROCEDURES FOR DETERMINING COMPLIANCE WITH THIS SECTION FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS; AND AMENDING CHAPTER 78 GENERAL PROVISIONS, SECTION 78-1 RULES OF CONSTRUCTION AND DEFINITIONS, TO REVISE AND BROADEN THE DEFINITION OF NEIGHBORHOOD TO INCLUDE A DEFINITION OF ESTABLISHED NEIGHBORHOOD; AND AMENDING CHAPTER 82 ADMINISTRATION, ARTICLE IV DEVELOPMENT PERMITS, DIVISION 2 PROCEDURE SUBDIVISION 1 GENERALLY, SECTION 82-382 FILING PROCEDURE, TO ADD A STANDARDIZED FORM, TO BE COMPLETED BY THE DEVELOPMENT PERMIT APPLICANT FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS, THAT WILL ASSIST THE APPLICANT WITH REPORTING HOW THEIR APPLICATION CONFORMS TO THE REQUIREMENTS AND STANDARDS OF SECTION 86-43; AND SUBDIVISION II SHORT-FORM, SECTION 82-401 APPLICATION, TO REFLECT THAT A SINGLE FAMILY OR DUPLEX DWELLING UNIT THAT EXCEEDS THE THRESHOLD SIZE ESTABLISHED IN SECTION 86-43 IS NOT AVAILABLE FOR A SHORT-FORM DEVELOPMENT PERMIT; AND SUBDIVISION III LONG-FORM, SECTION 82-421 APPLICATION, TO REFLECT THAT A SINGLE FAMILY OR DUPLEX DWELLING UNIT THAT EXCEEDS THE THRESHOLD SIZE ESTABLISHED IN SECTION 86-43 IS PROCESSED AS A LONG-FORM DEVELOPMENT PERMIT; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE**

CITY OF SANIBEL

ORDINANCE NO. 09 - 011

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, SUBPART B LAND DEVELOPMENT CODE, AMENDING CHAPTER 86 DEVELOPMENT REGULATIONS, ARTICLE II SITE PREPARATION, SECTION 86-43 APPEARANCE OF STRUCTURES; SIZE AND MASS OF STRUCTURES, TO ADD A STATEMENT OF PURPOSE, TO ADD OBJECTIVES, TO ADD A REVIEW PROCESS FOR DETERMINATION OF (LONG-FORM OR SHORT-FORM) DEVELOPMENT PERMIT APPLICATION PROCEDURE FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS; TO ADD NOTIFICATION PROCEDURES FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS; TO ADD INTERPRETIVE ARCHITECTURAL DESIGN GUIDELINES FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS, TO ADD INTERPRETIVE SITE PLANNING DESIGN GUIDELINES FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS, TO ADD PROCEDURES FOR DETERMINING COMPLIANCE WITH THIS SECTION FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS; AND AMENDING CHAPTER 78 GENERAL PROVISIONS, SECTION 78-1 RULES OF CONSTRUCTION AND DEFINITIONS, TO REVISE AND BROADEN THE DEFINITION OF NEIGHBORHOOD TO INCLUDE A DEFINITION OF ESTABLISHED NEIGHBORHOOD; AND AMENDING CHAPTER 82 ADMINISTRATION, ARTICLE IV DEVELOPMENT PERMITS, DIVISION 2 PROCEDURE SUBDIVISION 1 GENERALLY, SECTION 82-382 FILING PROCEDURE, TO ADD A STANDARDIZED FORM, TO BE COMPLETED BY THE DEVELOPMENT PERMIT APPLICANT FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS, THAT WILL ASSIST THE APPLICANT WITH REPORTING HOW THEIR APPLICATION CONFORMS TO THE REQUIREMENTS AND STANDARDS OF SECTION 86-43; AND SUBDIVISION II SHORT-FORM, SECTION 82-401 APPLICATION, TO REFLECT THAT A SINGLE FAMILY OR DUPLEX DWELLING UNIT THAT EXCEEDS THE THRESHOLD SIZE ESTABLISHED IN SECTION 86-43 IS NOT AVAILABLE FOR A SHORT-FORM DEVELOPMENT PERMIT; AND SUBDIVISION III LONG-FORM, SECTION 82-421 APPLICATION, TO REFLECT THAT A SINGLE FAMILY OR DUPLEX DWELLING UNIT THAT EXCEEDS THE THRESHOLD SIZE ESTABLISHED IN SECTION 86-43 IS PROCESSED AS A LONG-FORM DEVELOPMENT PERMIT; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Land Development Code Review Committee of the Planning Commission held public hearings that were legally and properly advertised and held on April 8, 2008, May 13, 2008, July 8, 2008, August 12, 2008, September 2, 2008, September 23, 2008, October 28, 2008, January 27, 2009, February 24, 2009, March 10, 2009, March 24, 2009, April 14, 2009, April 28, 2009, May 26, 2009 and June 9, 2009; and

WHEREAS, the Land Development Code Review Committee, after full and complete discussions and consideration of related staff reports and public comments recommend (Planning Commission Resolution no. 09-08) that an ordinance be written to clarify and revise land use regulations pertaining to the appearance, size and mass of single family dwellings and duplexes; and

WHEREAS, Planning Commission Resolution 09-08 directed Development of new application review procedures and requirements:

- To ensure that notice of the submittal of a development permit application is provided to abutting and nearby property owners and to the registered association of an established neighborhood; and
- To establish that the habitable floor area of the largest home within an established neighborhood will serve as a review trigger, but not as a limit on the size of single family and duplex dwelling units, for determining whether the development permit application will be reviewed as either a short-form or long-form application; and
- To determine compliance with Land Development Code Section 86-43; and

WHEREAS, Planning Commission Resolution 09-08 further directed development of interpretative architectural and site design guidelines to assist applicants for single family and duplex dwellings in demonstrating compliance with the requirements of Section 86-43; and

WHEREAS, an application was made by the City of Sanibel to clarify and revise land use regulations to ensure that all single family and duplex dwelling units be developed in a manner that is harmonious with the general atmosphere and character of the established neighborhood; 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, an ordinance to amend the Land Development Code as directed by Planning Commission Resolution no. 09-08 has been prepared; and

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

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

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

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

SECTION 1. The Code of Ordinances of the City of Sanibel, Chapter 86 Development Regulations, Article II Site Preparation, Section 86-43, Appearance of structures; size and mass of structures, is hereby amended with underlining indicating additions and ~~striketroughs~~ indicating deletions, as follows:

Section 86-43. Appearance of structures; size and mass of structures

(a) Statement of Purpose

In the Future Land Use Element of the *Sanibel Plan*, the Plan for Preservation and Community Design contains a provision to “consider establishing standards to better ensure neighborhood and community compatibility for single family dwellings. . . .” The development regulations for single family and duplex dwelling units in this Section are applied City-wide with restrictions based on neighborhood characteristics and the size and characteristics of the site. These regulations are intended to ensure neighborhood and community compatibility.

The purpose of this Section is:

To establish a “neighborhood floor area threshold” as a review process determinant, but not as a limit on the size of a single family or duplex dwelling unit. The “neighborhood floor area threshold” is to be used to require all applications for single family and duplex dwelling units or additions that exceed the total habitable square foot area of the largest home within an established

neighborhood to be processed and reviewed as long-form development permit applications by the Planning Commission.

To provide architectural design guidelines and interpretive site planning design guidelines for single family and duplex dwelling units.

To add procedures for notification of homeowners associations for established neighborhoods and abutting and nearby property owners of the filing of an application for a single family or duplex dwelling unit.

To provide a review procedure for single family and duplex dwelling units for determining compliance or noncompliance with the requirements of this Section.

To add a reference in this Section to the Architectural Design Guidelines developed for commercial buildings in the Town Center Commercial Districts.

(b) Objectives

The objectives of this Section are:

To ensure that all buildings and structures are designed, constructed, maintained and improved in a manner that preserves and enhances the environmental, visual and physical character of Sanibel, consistent with the *Sanibel Plan* and it's Vision Statement

To ensure that new single family and duplex dwelling units and additions to existing single family and duplex dwelling units are compatible with their neighborhood and community and do not interrupt the rhythm, harmony and character of an established neighborhood.

To provided guidance to applicants for single family and duplex dwelling units in the preparation of their application an in demonstrating compliance with the requirements of this Section

(c) Appearance of structures; size and mass of structures – All buildings and structures

The following standards apply to all buildings and structures within the City of Sanibel, including single family and duplex dwelling units.

1a) Within any zone, taking into consideration applicable flood regulations and other laws, no structure shall be constructed or altered, in any manner, so as to interrupt the rhythm of existing structures in the established neighborhood; or in any manner which would be inharmonious with the general atmosphere and character of the established neighborhood; or, if there is no established neighborhood, the City as a whole.

2b) Within any zone, taking into consideration applicable flood regulations and other laws, no structures shall be constructed or altered in any manner so that its size, bulk, mass, height, or location or orientation on the lot unreasonably infringes upon the adjoining property owner's enjoyment of his property in terms of air circulation and access to natural light ~~and sunlight~~.

(d) Interpretive Architectural Design Guidelines

Compliance with these guidelines alone cannot assure the applicant of a determination of compliance with all the requirements and standards of this Section.

Guidelines for single family dwellings and duplexes

The following interpretive architectural design guidelines are provided to assist applicants in demonstrating that the appearance, size and mass of a residential dwelling unit does not interrupt the rhythm, harmony and character of an established neighborhood or nearby land uses.

1) All building facades shall provide, through the use of detail and scale, visual interest consistent with the character of the existing neighborhood.

- 2) The architectural design and detailing of the structure, particularly in terms of the front façade, should not result in a repetitive and cookie cutter appearance of buildings along a block face and particularly in conjunction with contiguous dwellings.
- 3) Long, uniform and unarticulated façades, particularly the front façade, should be discouraged. Facades should be broken up by incorporating the use of smaller building components, projections and appropriately scaled and located building openings.
- 4) All wall planes shall be varied to create visual interest and reduce the appearance of dominating building mass and blank walls.
- 5) To reduce mass and scale, large facades and building features that are both horizontal and vertical shall be broken up to represent a more human proportion and scale.
- 6) The proposed mass of the upper stories of a structure should be appropriately located within the overall mass and composition of a structure, particularly when viewed from the street.
- 7) Require a variety of appropriately scaled and articulated roof planes to avoid the appearance of relatively flat and blank elevation views.
- 8) Multiple bay automobile garages consisting of three or more bays ideally should be turned sideways to, rather than facing, the street or designed as separate garage spaces serving one or two vehicles or bays.
- 9) The exterior walls of uninhabitable ground floor levels should ideally be treated and articulated differently from the exterior walls of the above habitable floor levels.

- 10) Conservation of native vegetation and landscaping plans shall be designed as an integral part of the site plan and building design. The type, height and massing of the landscaping should complement the building foundation and lower levels.
- 11) The size, scale, location and orientation of all windows and doors should be designed as integral components of the building façade.
- 12) Green and sustainable building design and construction technologies, materials and techniques are encouraged to address site and environmental features, energy efficiency, water quality and conservation and weather and climate.
- 13) Hurricane resistance is a key design criterion for all construction. Providing for wind resistance and protection for openings are critical aspects of hurricane resistant design and must be considered for all buildings consistent with the standards and requirements of the Florida Building Code.
- 14) City Council may adopt and, from time to time, amend an illustrated set of guidelines to aid in the administration and interpretation of the above standards.
- 15) City Council may also adopt, and from time to time amend, additional illustrated guidelines, as proposed by a legally defined or incorporated homeowners association, to further aid in the administration and interpretation of the above standards as applicable to a specific residential subdivision or development.

Guidelines for commercial and other non-residential buildings

Architectural design guidelines for commercial and other non-residential buildings, adopted by City Council Resolution, are provided in a document entitled "Architectural and Site Planning Design Standards and Guidelines for Town Center General (TCG) and Town Center Limited (TCL) Commercial Zoning Districts". Like the guidelines for

single family dwellings and duplexes contained in this subsection, these guidelines are intended to assist applicants in demonstrating compliance with the requirements and standards of this Section. No specific guidelines shall be considered mandatory (unless a separate code requirement exists relating to the same subject matter) but such guidelines are established for the benefit of both the applicant and the City to assist in achieving compliance with the provisions of this code.

(e) Interpretive Site Planning Design Guidelines for single family dwellings and duplexes

Compliance with these guidelines alone cannot assure the applicant of a determination of compliance with all the requirements and standards of this Section.

Guidelines for single family dwellings and duplexes

The following interpretive site planning design guidelines are provided to assist the applicant in demonstrating that the appearance, size and mass of a residential dwelling unit does not interrupt the rhythm, harmony and character of an established neighborhood or nearby land uses.

- 1) The orientation of the structure to the street should be in a manner that recognizes and complements existing site characteristics, adjoining structures and the prevailing orientation of existing neighborhood structures.
- 2) The conservation of existing native vegetation and implementation of landscaping plans shall be designed as an integral part of the site plan and building design. The type, height and massing of the landscaping should complement the building foundation and lower levels.
- 3) The accompanying site plan, construction plans and landscaping plan, shall fully integrate the design for the principal and accessory structures in a manner that responds to and reinforces the characteristics of the site and surrounding neighborhood.

- 4) The location, scale and orientation of the principal and accessory structures shall respect the lot area, configuration and other existing conditions of the parcel on which it is or is to be located, as well to adjoining and nearby properties, in terms of building dimensions and proportions, roof lines, access to light and air, and overall visual and physical continuity.
- 5) A landscape plan shall demonstrate effective screening of all exposed sides of the principal and accessory structures. The landscape plan, through the preservation, and planting, of appropriate native trees and plants shall provide a vegetative screen around the perimeter of the proposed structure and reinforce the uniqueness of the site and surrounding neighborhood.
- 6) The total developed area within a front yard should be minimized to enable the conservation and introduction of native vegetation.
- 7) The design, location and width associated with driveway and walkway construction should be responsive to site and vegetation conditions and should not present dominant features or a significant percentage of the total permitted developed area within the front yard.
- 8) Side yard setbacks should be increased, where possible, to maximize the angle of light and the circulation of air.

Guidelines for commercial and other non-residential buildings

Site planning design guidelines for commercial and other non-residential buildings, adopted by City Council Resolution, are provided in a document entitled “Architectural and Site Planning Design Standards and Guidelines for Town Center General (TCG) and Town Center Limited (TCL) Commercial Zoning Districts”. Like the guidelines for single family dwellings and duplexes contained in this subsection, these guidelines are intended to assist applicants in demonstrating compliance with the requirements and standards of this Section.

(f) Long-form and Short-form Development Permit Applications - Determination of the application review process for all buildings and structures, including new single family and duplex dwelling units and additions to single family and duplex dwelling units

The following applications for a building or structure, including applications for single family and duplex dwelling units, and additions thereto, are classified as long-form development permit applications:

Any development permit application for a building or structure which raises questions as to compliance with this Section

Any development permit application for a single family or duplex dwelling unit or for an addition to a single family or duplex dwelling unit, regardless of the size of that unit, which raises questions as to compliance with this Section

Any development permit application for a single family or duplex dwelling unit or for an addition to a single family or duplex dwelling unit that is located in an established neighborhood, and which proposes total habitable floor area exceeding the total habitable floor area of the largest single family or duplex dwelling unit in that established neighborhood

Any development permit application for a single family or duplex dwelling unit or for an addition to a single family or duplex dwelling unit that is not located in an established neighborhood, and which proposes total habitable floor area exceeding the total habitable floor area of the largest single family or duplex dwelling unit that is located within 300 feet of the site where the dwelling unit or addition is proposed

The following criteria is applicable in the determination of the appropriate application review process for all buildings and structures, including applications for new single family and duplex dwelling units and additions to single family and duplex dwelling units.

The total habitable floor area of the single family or duplex dwelling unit under review consists of its total habitable (living) floor area, excluding exterior decks and stairs. Enclosed and open areas below the lowest habitable floor (below the base flood elevation) or below elevated swimming pools are also excluded from the calculation of total habitable (living) floor area.

The determination of the largest single family or duplex dwelling unit in the established neighborhood or within 300 feet of the site of the proposed unit is to be based on data for total habitable (living) floor area for single family or duplex dwelling units from the Lee County Property Appraiser's Office and/or approved construction and site plans contained within the official City of Sanibel Building Permit files.

A City-wide map entitled "Established Neighborhoods" shall be used to determine in which, if any, established neighborhood the lot for the proposed single family or duplex dwelling unit, or addition thereto, is located. The same map is to be used to determine the extent of the boundaries of that established neighborhood. The map of "Established Neighborhoods", to be adopted by City Council resolution, is to be provided with the City's application forms, required to be completed by the applicant for submittal of an application for a single family or duplex dwelling unit. The map of "Established Neighborhoods" will be annually reviewed by the Permitting Process Review Committee of the Planning Commission.

(g) Procedures for notification of the filing of an application for a single family or duplex dwelling unit and for notification of the public hearing required for applications that are classified as long-form development permit applications.

The notification procedures for the filing of an application contained in this subsection apply to all development permit applications for new single family dwelling units, new duplex dwelling units and additions to existing single family and duplex dwelling units that result in an increase in the habitable (living) floor area of that unit.

After acceptance of the development permit application for a single family dwelling or duplex dwelling unit or application for an addition to a single family or duplex dwelling unit that result in an increase in the habitable (living) floor area of that unit, but at least 14 days prior to the issuance of the development permit, notice of the filing of the application will be mailed to:

The property owners of any lands abutting or within 300 feet of the site where the single family dwelling unit, duplex or addition to a single family or duplex dwelling unit is proposed.

The appropriate homeowners' association of the established neighborhood, if applicable and if the association is registered with the City.

(The listing of home owners associations for registered neighborhoods is provided with the City's development permit application forms that are required to be completed by the applicant for submittal of an application for a single family or duplex dwelling unit.)

Notification of a public hearing for applications that are classified as long-form development permit applications by the criteria in subsection (f) of this Section will be provided pursuant to Section 82-422 Scheduling and notice.

(h) Procedures for determining compliance with this Section for single family and duplex dwelling units

The following procedures are provided to assist applicants, the Planning Department and the Planning Commission in determining compliance with the requirements and standards of this Section for single family and duplex dwelling units.

- 1) The Planning Department shall prepare and maintain a standardized form to be included as part of applicable short-form and long-form applications that will assist the applicant with reporting how the application conforms to Section 86-43. The form will be annually reviewed by the Permitting Process Review Committee of the Planning Commission.

- 2) The completed form will assist the Planning Department in evaluating applications and reporting to the applicant, within fourteen days of receipt of a complete preliminary application, whether or not compliance has been achieved or whether further design modifications may be warranted.
- 3) The form will be maintained as part of the application file for public inspection and review.
- 4) In the event that the applicant and the Planning Department do not agree on whether the short form application is in conformance with Sec. 86-43, the following alternative procedures are established.
- 5) Pursuant to the Sanibel Code, Chapter 14, Article II, Division 4, Section 14-91 Outside Professional Review, the applicant and the Planning Department may secure appropriate professional services to independently review the application and submit recommendations necessary to achieve compliance.
- 6) The applicant and/or the Planning Department may also refer the application to the Planning Commission, pursuant to Land Development Code, Chapter 82, Article III, Division 3, Subdivision III. Interpretations of the Land Development Code.
- 7) The completed form will also accompany all applicable long-form development permit applications requiring review by the Planning Commission.

SECTION 2. The Code of Ordinances of the City of Sanibel, Chapter 78 General Provisions, Section 78-1 Rules of construction and definitions, is hereby amended with underlining indicating additions and ~~striketroughs~~ indicating deletions, as follows:

Section 78-1 Rules of construction and definitions

...

- (c) Throughout this Land Development Code, the following words and phrases shall have the meanings indicated unless the text of the article or section in which used clearly indicates otherwise:

...

Floor area means for commercial structures all the area of the floor surfaces For single family and duplex dwelling units, the term "habitable (living) floor area" is defined in Section 86-43.

...

Neighborhood means a discernible a geographical land area or location with an established permitted and surrounding land use pattern in which the development scheme has resulted in the erection of structures which are similar in size, exterior design and placement on the parcel whether such development took place in stages or all at one time. ~~or in~~ A neighborhood is also a development where the land area is in common ownership, which has resulted in a discernible scheme, or where the structures are of similar size and similar setbacks from the road, or there is an evident unity of development. A neighborhood is often a platted area, but does not have to be.

(A map of "Established Neighborhoods" to be used to implement the procedures for determining compliance with Section 86-43 for single family and duplex dwelling units is provided with the City's application forms that are required to be completed by the applicant for submittal of an application for a single family or duplex dwelling unit.)

...

SECTION 3. The Code of Ordinances of the City of Sanibel, Chapter 82 Administration, Article IV Development Permits, Division 2 Procedure, Subdivision I Generally, Section 82-382 Filing procedure, is hereby amended with underlining indicating additions and ~~strikethroughs~~ indicating deletions, as follows:

Section 82-382 Filing procedure

The developer shall file with the City Manager or the Manager's his designated representative, a complete application for development permit, made upon forms supplied by the City and containing or accompanied by the following:

(1) . . . (Subsections 1-29 are not amended and remain unchanged)

30) A form to demonstrate compliance with the requirements and standards of Section 86-43 that requests information from the applicant to assist the applicant in demonstrating that the application for a single family or duplex dwelling unit or an addition for a single family or duplex dwelling unit complies with the requirements and standards of Section 86-43 and to assist the Planning Department and the Planning Commission in determining if that application complies with the requirements and standards of Section 86-43

~~31~~ 30) The City Manager, the Manager's designee or the Planning Commission may waive any of the foregoing requirements which are not essential to the processing of the application, except those contained in subsections (3) and (6) of this Section.

SECTION 4. The Code of Ordinances of the City of Sanibel, Chapter 82 Administration, Article IV Development Permits, Division 2 Procedure, Subdivision II Short Form, Section 82-401 Applicability, is hereby amended with underlining indicating additions and ~~striketroughs~~ indicating deletions, as follows:

Section 82-401 Applicability

A short-form application may be available for the following types of development:

- (1) Construction of a single-family dwelling or duplex, and for the relocation of an existing structure for residential use, that does not exceed the threshold size established in Section 86-43, except an application which raises questions as to compliance with the provisions of Section 86-43.
- (2) Additions or extensions to existing buildings, including single-family dwellings or duplexes that do not exceed the threshold size established in Section 86-43 which do not raise questions as to the compliance with the provisions of Section 86-43.
- (3) . . . (Subsections 3-13 are not amended and remain unchanged)

SECTION 5. The Code of Ordinances of the City of Sanibel, Chapter 82 Administration, Article IV Development Permits, Division 2 Procedure, Subdivision III Long Form, Section 82-421 Applicability, is hereby amended with underlining indicating additions and ~~striketroughs~~ indicating deletions, as follows:

Section 82-421 Applicability

A long-form application shall be required for the following types of development:

- (1) All applications for development that do not qualify for short-form application.
- (2) Application for development which the city manager determines to be inconsistent with the plan or raise issues as to interpretation of the Sanibel Plan or this land development code.
- (3) All applications for development which require a variance.
- (4) All applications for development requiring conditional use permits.
- (5) All applications which require interpretation of zone line.
- (6) Any application in which the developer seeks an interpretation of the language of the Sanibel Plan or this land development code inconsistent with that of the city manager.
- (7) Any application for placement of a structure on the historic register, in accordance with the procedure set forth in chapter 98.
- (8) Any application which raises questions as to compliance with Section 86-43 and any single-family dwelling or duplex or any addition to a single-family dwelling or duplex that exceeds the threshold size established in Section 86-43.
- (9) Building back either a nonconforming structure or a non-conforming use within a nonconforming structure which has been destroyed or substantially damaged by a natural disaster within the three-dimensional outline of the lawfully existing habitable area of the pre-disaster building, but the footprint of the lawfully existing pre-disaster building is moved in a manner that reduces the pre-disaster building's encroachment into the Gulf Beach Zone.

- (10) All applications for a principal structure that includes an accessory structure, integrally attached to the principal structure, which requires a long-form application.

SECTION 6. Codification.

This ordinance shall be an amendment to Subpart B of Part II of the Code of Ordinances of the City of Sanibel. Section 86-43 in Chapter 86 Development Regulations, Article II Site Preparation, Section 78-01 in Chapter 78 General Provisions and Sections 82-382, 82-401 and 82-421 in Chapter 82 Administration, Article IV Development Permits are hereby amended.

SECTION 7. 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 8. 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 9. 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 _____, 2009.

AUTHENTICATION:

Mick Denham, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: *Kenneth B. Cuyler* *8/13/09*
Kenneth B. Cuyler, City Attorney Date

Publication and Hearing Dates:

Date of First Public Hearing: _____, 2009

Ordinance Publication Date: _____, 2009

Date of Second Public Hearing: _____, 2009

Vote of Council Members:

Denham _____

Ruane _____

Harrity _____

Jennings _____

Pappas _____

Date filed with the City Clerk: _____

RESOLUTION NO. 09-10

**CITY OF SANIBEL
PLANNING COMMISSION**

**A RESOLUTION APPROVING AND RECOMMENDING ENACTMENT BY THE CITY COUNCIL OF AN ORDINANCE AMENDING AN ORDINANCE AMENDING THE CODE OF ORDINANCES, SUBPART B LAND DEVELOPMENT CODE,
AMENDING CHAPTER 86 DEVELOPMENT REGULATIONS, ARTICLE II SITE PREPARATION, SECTION 86-43 APPEARANCE OF STRUCTURES; SIZE AND MASS OF STRUCTURES,
TO ADD A STATEMENT OF PURPOSE,
TO ADD OBJECTIVES,
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TO ADD PROCEDURES FOR DETERMINING COMPLIANCE WITH THIS SECTION FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS; AND
AMENDING CHAPTER 78 GENERAL PROVISIONS, SECTION 78-1 RULES OF CONSTRUCTION AND DEFINITIONS,
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PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Land Development Code Review Committee held public hearings on April 8, 2008, May 13, 2008, July 8, 2008, August 12, 2008, September 2, 2008, September 23, 2008, October 28, 2008, January 27, 2009, February 24, 2009, March 10, 2009, March 24, 2009, April 14, 2009, April 28, 2009 and May 26, 2009 and adopted a resolution (no. 09-08) on June 9, 2009 to clarify and revise land use regulations pertaining to the appearance, size and mass of single family dwellings and duplexes; and

WHEREAS, an application (no. 09-5246LDC) was made by the City of Sanibel to amend Chapter 86 Development Standards, Article II. Site Preparation, Section 86-43, Appearance of Structures; size and mass of structures and related procedures in its land use regulations, as directed by City Council and Planning Commission Resolution no. 09-08; and

WHEREAS, that ordinance to amend the Land Development Code includes a provision that a map entitled "Established Neighborhoods" is to be adopted by City Council Resolution to implement the procedures and standards of Section 86-43; and

WHEREAS, a public hearing was legally and properly advertised and held on August 11, 2009; and

WHEREAS, the Planning Commission made reference to the *Sanibel Plan* and determined that the proposed amendment to the land development regulations is consistent with the intent and purpose of the *Sanibel Plan*; and

WHEREAS, the Planning Commission determined that 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 not 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 not adversely affect the character stability of the present and future land use and development of the community;
- e. Will not 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.

WHEREAS, at the public hearing on August 11, 2009, all Commissioners were present, except for Commissioner Tom Krekel;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission, that after full discussion and review of the proposed ordinance, the Planning Commission closes the public hearing and recommends that City Council enact the amendment to the Land Development Code as proposed in draft no. 1 of the ordinance (dated 7/24/9), the title of which is provided in this resolution; and

