

CITY OF SANIBEL

ORDINANCE 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 OBJECTIVES, TO ADD NOTIFICATION PROCEDURES FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS AND MODIFICATIONS TO THE EXTERIOR OF EXISTING SINGLE FAMILY OR DUPLEX DWELLING UNITS THAT CHANGE THE APPEARANCE OF THE SIZE AND MASS OF THE EXISTING STRUCTURE IN RELATION TO THE THREE-DIMENSIONAL OUTLINE OF THE EXISTING STRUCTURE, TO ADD PROCEDURES FOR DETERMINING COMPLIANCE WITH THIS SECTION FOR SINGLE FAMILY AND DUPLEX DWELLING UNITS AND MODIFICATIONS TO THE EXTERIOR OF EXISTING SINGLE FAMILY OR DUPLEX DWELLING UNITS THAT CHANGE THE APPEARANCE OF THE SIZE AND MASS OF THE EXISTING STRUCTURE IN RELATION TO THE THREE-DIMENSIONAL OUTLINE OF THE EXISTING STRUCTURE, 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 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, 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 determine compliance with Land Development Code Section 86-43; 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 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 directed that the pending ordinance be revised, as contained herein, to require notification of applications for new single family and duplex dwellings and for a modification to the exterior of a single family or duplex dwelling units that change the appearance of the size and mass of the existing structure in relation to the three-dimensional outline of the existing structure, 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 ~~strikethroughs~~ indicating deletions, as follows:

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

(a) 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

Statement.

To ensure that new single family and duplex dwelling units and modifications to the exterior of existing single family or duplex dwelling units that change the appearance of the size and mass of the existing structure in relation to the three-dimensional outline of the existing structure are compatible with their neighborhood and community and do not interrupt the rhythm, harmony and character of an established neighborhood.

To provide guidance to applicants for new single family and duplex dwelling units and modifications to the exterior of existing single family or duplex dwelling units that change the appearance of the size and mass of the existing structure in relation to the three-dimensional outline of the existing structure in the preparation of their application and in demonstrating compliance with the requirements of this Section

(b) 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 new single family and duplex dwelling units and modifications to the exterior of existing single family or duplex dwelling units that change the appearance of the size and mass of the existing structure in relation to the three-dimensional outline of the existing structure.

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~~.

(c) Procedures for notification of the filing of an application for a single family or duplex dwelling unit or for a modification to the exterior of an existing single family or duplex dwelling unit that changes the appearance of the size and mass of the existing structure in relation to the three-dimensional outline of the existing structure.

The notification procedures for the filing of an application contained in this subsection apply to all development permit applications for single family or duplex dwelling units or for modifications of the exterior of an existing single family or duplex dwelling units that change the appearance of the size and mass of the existing structure in relation to the three-dimensional outline of the existing structure.

After acceptance of the development permit application for a single family dwelling or duplex dwelling unit or an application for a modification to the exterior of a single family or duplex dwelling unit that changes the appearance of the size and mass of the existing structure in relation to the three-dimensional outline of the existing structure, 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 or duplex dwelling unit or modification to the exterior of a single family or duplex dwelling unit that changes the appearance of the size and mass of the existing structure in relation to the three-dimensional outline of the existing structure is proposed.

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

(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 form for submittal of an application for a single family or duplex dwelling unit, or an addition thereto. The map of "Established Neighborhoods" may be annually reviewed by the Permitting Process Review Committee of the Planning Commission.)

The mailing addresses of the property owners that are to receive notice pursuant to this Subsection are the mailing addresses that have been provided by those property owners to the Lee County Property Appraiser's Office for the mailing of Property Tax notices for that property.

Notice of the filing of the application for a single family dwelling or duplex dwelling unit or an application for a modification to the exterior of a single family or duplex dwelling unit that changes the appearance of the size and mass of the structure in relation to the three-dimensional outline of the existing structure will be mailed at least 14 days prior to the issuance of the development permit.

Notification of a public hearing for applications for single family or duplex dwelling units or modification to the exterior of existing single family or duplex dwelling units that change the appearance of the size and mass of the existing structure in relation to the three-dimensional outline of the existing structure, that are classified as long-form development permit applications by the criteria in Section 82-421, will be provided pursuant to Section 82-422 Scheduling and notice.

(d) Procedures for determining compliance with this Section for single family or duplex dwelling units or modification to the exterior of existing single family or duplex dwelling

to the three-dimensional outline of the existing structure.

The following procedures are provided to assist applicants and the Planning Department and, in the case of a long-form application, the Planning Commission, in determining compliance with the requirements and standards of the Land Development Code, including this Section, for single family or duplex dwelling units or modifications to the exterior of existing single family or duplex dwelling units that change the appearance of the size and mass of the existing structure in relation to the three-dimensional outline of the existing structure.

- 1) The Planning Department shall prepare and maintain a standardized form that will be available to the applicant and that may assist the applicant's reporting the ways in which the application conforms to Section 86-43.
- 2) The completed form, if submitted by the applicant, will assist the Planning Department in evaluating applications and reporting to the applicant whether or not compliance has been achieved or whether further design modifications may be warranted.
- 3) The completed form, if submitted by the applicant, 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 Section 86-43, the following alternative procedures are established:
 - a) 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

necessary to achieve compliance.

b) 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.

5) Applications for development which the City Manager determines to be inconsistent with other Sections of the Land Development Code or the *Sanibel Plan* shall be long-form as required by Section 82-421.

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:

...

Neighborhood means a discernible 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 some of the land area is in common ownership, which also 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” is provided with the City’s application forms for a single family or duplex dwelling unit.)

...

SECTION 3. 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 and Section 78-01 in Chapter 78 General Provisions are hereby amended.

SECTION 4. 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 5. 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 6. 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 _____, 2010.

AUTHENTICATION:

Mick Denham, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM:

Kenneth B. Cuyler, City Attorney

Date

Publication and Hearing Dates:

Date of First Public Hearing:	August 18, 2009
Ordinance Publication Date:	September 03, 2009
Second Public Hearing:	September 15, 2009
Ordinance Publication Date	October 08, 2009
Continuation of Second Public Hearing	October 20, 2009
Ordinance Publication Date	December 23, 2009
Continuation of Second Public Hearing	January 05, 2010
Ordinance Publication Date	January 07, 2010
Continuation of Second Public Hearing	January 19, 2010

Vote of Council Members:

Denham	nay
Ruane	yea
Harrity	yea
Jennings	yea
Pappas	nay

Date filed with the City Clerk: February 02, 2010