

**CITY OF SANIBEL  
ORDINANCE 23-010**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, TO ALLOW THE USE OF SHORT-FORM APPLICATION FOR ELEVATED SWIMMING POOLS HIGHER THAN SEVEN FEET ABOVE PREDEVELOPMENT GRADE BY AMENDING CHAPTER 126, ZONING, ARTICLE XIV, SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 15, ELEVATED SWIMMING POOLS, SECTION 126-1302. REQUIREMENTS AND PROCEDURES, SUBSECTION (a) PROCEDURES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, land development regulations were amended in 2006 to allow swimming pools to be elevated, partially or totally, above the ground; and

**WHEREAS**, interpretive design guidelines set forth in the land development code ensure that the appearance, size, and mass of elevated swimming pools do not “interrupt the rhythm of existing structures” and will be in harmony “with the general atmosphere and character of the established neighborhood”; and

**WHEREAS**, landscape requirements set forth in the land development code ensure vegetative screening on all exposed sides of elevated swimming pools; and

**WHEREAS**, the City Council finds this ordinance to be necessary and appropriate based upon the unprecedented damage from Hurricane Ian and the need to expedite the permit application process for elevated swimming pools higher than seven feet above predevelopment grade.

**WHEREAS**, the Planning Commission held a legally and properly advertised public hearing on April 25, 2023, at which the Planning Commission heard and considered comments and recommendations from the Planning Staff and the public pertaining to a draft amendment related to elevated swimming pools; and

**WHEREAS**, the Planning Commission found the proposed amendments to the Land Development Code as indicated below are consistent with the Sanibel Plan and meet the requirements of LDC Section 82-241, and recommended by a vote of 6 to 0 that the City Council adopt said amendments in the form of an ordinance, the substance of which follows below.

**NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SANIBEL, FLORIDA:**

**SECTION 1.** The recitals above are true and correct and made a part hereof.

**SECTION 2.** Chapter 126, Article XIV, Division 15, Section 126-1302 is hereby amended to read as follows, with additions indicated by underlining and deletions indicated by ~~strikethrough~~:

**Chapter 126 - ZONING**

**ARTICLE XIV. – SUPPLEMENTARY DISTRICT REGULATIONS**

...

**DIVISION 15. – ELEVATED SWIMMING POOLS**

...

**Sec. 126-1302. Requirements and procedures.**(a) *Procedures.*

(1) ~~Short-form application. After acceptance of the development permit application for an elevated pool that is higher than three feet, six inches above predevelopment grade of the parcel, notice of the filing of the application will be mailed to: Short form applications may be available for swimming pools that are:~~

~~a. Higher than three feet, six inches above the predevelopment grade of the parcel on which it is to be located.~~

~~b. Higher than three feet, six inches, but no higher than seven feet, above the predevelopment grade of the parcel on which it is to be located, but require:~~

~~• mailed notice to abutting adjacent property owners; and~~

~~• mailed notice to any applicable homeowners association, if the elected official of the homeowners association has been registered with the city; not less than 14 days prior to approval of the development permit.~~

~~(2) Long form applications. Long form applications are required for swimming pools that are higher than seven feet above the predevelopment grade of the parcel on which it is to be located.~~

~~(23) Findings detailing compliance or any non-compliance of the application with the requirements in this section shall be included as part of the development permit review or, if a development permit is not issued, in a report prepared by the planning department.~~

(b) *Requirements.* All elevated swimming pools shall comply with the following requirements:

(1) *Height.* Any swimming pool elevated higher than three feet, six inches above the ground cannot be higher than the lowest floor of the associated structure. For the purpose of this height limit, a mid-level entry, or other area devoted only to building access, shall not be considered the lowest floor, even if constructed above the base flood elevation.

(2) *Interpretive design guidelines.* To ensure that the appearance, size, and mass of elevated swimming pools do not "interrupt the rhythm of existing structures" and will be in harmony "with the general atmosphere and character of the established neighborhood", the following interpretive design guidelines have been established. These interpretive guidelines have been established to ensure conformity with section 86-43 of this [Land Development] Code and the Sanibel Plan and consistency during design review for compliance.

a. The exterior architectural detailing and materials used for the elevated

swimming pool provide continuity of design between the attached, or detached, swimming pool and the existing or proposed residential structure.

- b. The plans, including the site plan, construction plans, and landscaping plan, 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.
  - c. The location, scale, and orientation of the swimming pool respects the lot area, configuration, and other existing conditions of the parcel on which it is to be located, as well as the relationship of the swimming pool 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.
  - d. Where the parcel on which the swimming pool is to be located is partially in a preservation district (the Gulf Beach Ecological Zone or Bay Beach Ecological Zone), the architectural and landscape plans shall maintain, restore, or reinforce the environmental functions of these preservation districts, as well as respond to the existing conditions of the site and surrounding neighborhood.
- (3) *Landscape requirements.* A landscape plan that effectively screens all exposed sides of the swimming pool is required. The landscape plan shall be reviewed for consistency with the above interpretive design guidelines. 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. The vegetative screen shall:
- a. Reduce the visual impact of the attached, or detached, accessory swimming pool;
  - b. Complement the architectural design of the principal structure; and
  - c. Provide continuity with existing vegetation and proposed landscape elements of the parcel on which the swimming pool is to be located.

**SECTION 3. Codification.** The City Manager is hereby authorized and directed to indicate these amendments in future City Code publications.

**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, 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 be effective immediately upon adoption.

**APPROVED AT FIRST READING THE 18TH DAY OF JULY 2023.**

**ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA THIS 15TH DAY OF AUGUST 2023.**

Attest:

  
\_\_\_\_\_  
Scotty Lynn Kelly, City Clerk

  
\_\_\_\_\_  
Richard Johnson, Mayor

Approved as to form and legality:

  
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John D. Agnew, City Attorney

Date filed with City Clerk: August 15, 2023

Vote of Council Members:

Johnson	<u>Aye</u>
Miller	<u>Aye</u>
Crater	<u>Aye</u>
Henshaw	<u>Aye</u>
Smith	<u>Aye</u>

First Reading: July 18, 2023  
Publication Date: August 3, 2023  
Second Reading: August 15, 2023