

CITY OF SANIBEL

ORDINANCE 18-006

AN ORDINANCE AMENDING THE SANIBEL CODE OF ORDINANCES, CHAPTER 14- BUILDING AND BUILDING REGULATIONS; REVISING THE FOLLOWING ARTICLES: ARTICLE I - IN GENERAL , SECTION 14-6, ENFORCEMENT AND PENALTIES; ARTICLE II - ADMINISTRATION, DIVISION 1 – GENERALLY, SECTION 14-31, ENFORCEMENT – POWERS OF AUTHORIZED OFFICIALS; ARTICLE II – ADMINISTRATION, DIVISION 2 – TO REPLACE BOARD OF ADJUSTMENT AND APPEALS, SECTIONS 14-51 – 14-53; DIVISION 3 – TO REPLACE CONSTRUCTION INDUSTRY REGULATION BOARD SECTIONS 14-71 – 14-72; ARTICLE II, DIVISION 4, SECTION 14-91, SECTION 6(b) TO DESCRIBE APPEAL PROCEDURE; ARTICLE IV – PERMITS, SECTION 14-188 TO REPLACE APPEAL FEE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Chapter 14 of the Sanibel Code of Ordinances, entitled “Buildings and Building Regulations”, contains various regulations relating to building, construction and development; and

WHEREAS, several Sections of Chapter 14 of the Sanibel Code of Ordinances were removed (through Ordinance 18-003) in error based on Staff recommendation and it is the desire of the City Council to correct the error and replace the Sections in Chapter 14 to the extent allowed by current law;

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

SECTION ONE. Sanibel Code of Ordinance Chapter 14 – BUILDINGS AND BUILDING REGULATIONS, ARTICLE I – IN GENERAL, SECTION 14-6 , ENFORCEMENT AND PENALTIES, is hereby amended with strikethrough language indicating deletions and underlined language indicating additions as follows:

Sec. 14-6. - Enforcement and penalties.

- (a) Any person who violates any provision of this chapter shall be subject to the enforcement actions and penalties set forth in section 1-15.
- (b) Any owner and any person in possession or control of the premises upon or concerning which a violation of this chapter is found shall be subject to the enforcement actions and penalties set forth in section 1-15.
- (c) The building official may revoke any permit issued under this chapter both for a violation of this chapter and where it appears that the permit should not have been issued.

- (d) The city manager or building official may initiate proceedings against any person before the city Construction Industry Regulation Board or Contractor Review Board or the state construction industry licensing board, as appropriate.
- (e) The city manager or building official may seek any civil remedies which may be available, including an action for unpaid or underpaid fees or charges, an action for nuisance abatement or injunction, and an action to place a lien upon the premises.

SECTION TWO. Sanibel Code of Ordinance Chapter 14 – BUILDINGS AND BUILDING REGULATIONS, ARTICLE II – ADMINISTRATION, DIVISION 1 – GENERALLY, SECTION 14-31, ENFORCEMENT - POWERS OF AUTHORIZED OFFICIALS is hereby amended with the underlining indicating new added language and strikethrough indicating deleted language to read as follows:

ARTICLE II. - ADMINISTRATION

DIVISION 1. - GENERALLY

Sec. 14-31. - Enforcement—Powers of authorized officials.

- (a) The building official, or licensed building official designee, shall exercise all powers of building officials granted by general law and by the Charter and ordinances of the city. The city manager, the building official, and their authorized representatives are authorized to enforce this chapter as described herein, all ordinances of the city and all provisions of law pertaining to construction within the city.
- (b) The building official shall have the power to:
 - (1) Review and approve applications and plans;
 - (2) Verify information presented;
 - (3) Issue permits and approvals;
 - (4) Inspect all construction;
 - (5) Issue lawful stop work orders;
 - (6) Initiate complaints before administrative boards or Contractor Review Board; and
 - (7) Refer matters to appropriate departments or agencies for prosecution

SECTION THREE. Sanibel Code of Ordinance Chapter 14 – BUILDINGS AND BUILDING REGULATIONS, ARTICLE II – ADMINISTRATION, DIVISION 2 – “BOARD OF ADJUSTMENT AND APPEALS”, SECTION 14-51 – CITY COUNCIL TO ACT, is hereby added with strikethrough language indicating deletions and underlined language indicating additions as follows:

DIVISION 2. - BOARD OF ADJUSTMENT AND APPEALS

Sec. 14-51. - City council to act.

The city council shall act as the city construction board of adjustment and appeals. Any reference to the board of adjustment and appeals contained in general law or this chapter, including any standard code, or in any other ordinance or code shall be deemed to refer to the city council.

Sec. 14-52. - Powers; hearings.

- (a) The construction board of adjustment and appeals shall have all powers conferred upon a construction board of adjustment and appeals by general law or by this chapter, including any standard codes, or in any other ordinance or code of the city.
- (b) Without limiting the foregoing, the construction board of adjustment and appeals, after notice and hearing, shall have the power to hear appeals of decisions and interpretations of the building official.
- (c) The construction board of adjustment and appeals may, in its discretion, refer any matter properly before it, including appeals requests, to a qualified hearing officer or master for hearing and recommended order. In such case, the hearing officer or master shall have the same powers as the construction board of adjustment and appeals to conduct the hearing and to render a recommended order. The building official, through the city manager, and the applicant shall have the right to file exceptions to the recommended order within ten days after rendition of the recommended order. The construction board of adjustment and appeals may adopt the recommended order with or without further hearing, or, after further hearing, may reverse or modify the recommended order. The decision of the council shall constitute the final administrative remedy.
- (d) In all hearings, fundamental due process shall be provided to the parties.

Sec. 14-53. - Appeals.

- (a) *Appeals of building official decisions.* The owner of a building, structure, or service system, or a duly authorized agent, may appeal a decision of the building official when any of the following conditions are claimed to exist:
 - (1) The building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure, or service system;
 - (2) The provisions of this chapter do not apply to the specific case;

- (3) An equally good or more desirable form of installation can be employed in the specific case; or
- (4) The intent and meaning of this chapter or any of the regulations of this chapter have been misconstrued or incorrectly interpreted.

The owner or authorized agent shall pay the filing fee established in this chapter and file a written notice of appeal with the city manager within 30 days after the building official rendered the decision. Payment of the filing fee is a prerequisite to filing.

SECTION FOUR. Sanibel Code of Ordinance Chapter 14 – BUILDINGS AND BUILDING REGULATIONS, ARTICLE II – ADMINISTRATION, DIVISION 3 – “CONSTRUCTION INDUSTRY REGULATION BOARD”, is hereby added with strikethrough language indicating deletions and underlined language indicating additions as follows:

DIVISION 3. - CONSTRUCTION INDUSTRY REGULATION BOARD

Sec. 14-71. - City council to act.

The city council shall act as the city construction industry regulation board. Any reference to a local construction industry regulation board contained in general law or this chapter, including any standard code, or in any other ordinance or code, shall be deemed to refer to the city council.

Sec. 14-72. - Powers; hearings.

- (a) The construction industry regulation board shall have all powers conferred upon a local construction industry regulation board by general law or by this chapter, including any standard code, or in any other ordinance or code of the city, subject to the limitations upon those powers contained in general law.
- (b) Without limiting the provisions of this section, the construction industry regulation board, after notice and hearing, shall have the power to deny permits, or issue permits with special conditions, if the construction industry regulation board finds a contractor to be guilty of fraud or a willful building code violation within the city; or if the construction industry regulation board both has proof that such contractor, through the public hearing process, has been found guilty in another county or municipality of fraud or a willful building code violation within the past 12 months, and finds, after providing the contractor with notice of an opportunity to be heard, that such fraud or violation would have been fraud or a violation if committed in the city.
- (c) Without limiting the provisions of this section, and without limiting the power of the city manager or the building official, the construction industry regulation board shall have the power to issue cease and desist orders to prohibit any person from engaging in the business of contracting who does not hold the required certificate or registration for the work being performed.
- (d) Without limiting the provisions of this section, and without limiting the power of the city manager or the building official, the construction industry regulation board shall have the

power to initiate proceedings or file complaints with the state construction industry licensing board.

- (e) The construction industry regulation board may, in its discretion, refer any matter properly before it to a qualified hearing officer or master for hearing and recommended order. In such case, the hearing officer or master shall have the same powers as the construction industry regulation board to conduct the hearing and shall have the power to render a recommended order. The building official, through the city manager, and the contractor or other respondent, may file exceptions to the recommended order within ten days after rendition of the recommended order. The construction industry regulation board may adopt the recommended order with or without further hearing, or, after further hearing, may reverse or modify the recommended order. The decision of the construction industry regulation board shall constitute the final administrative remedy.
- (f) In all hearings of the construction industry regulation board, fundamental due process shall be provided to the parties.

SECTION FIVE. Sanibel Code of Ordinance Chapter 14 – BUILDINGS AND BUILDING REGULATIONS, ARTICLE II – ADMINISTRATION, DIVISION 2 – “SPECIAL INSPECTIONS”, is hereby renumbered to Division 4 and amended with the underlining indicating new added language and strikethrough indicating deleted language to read as follows:

DIVISION 4 ~~2~~. - SPECIAL INSPECTIONS

Sec. 14-91. - Outside professional review of licenses and permits.

(a) When required; procedures. When, in his opinion, the city manager or the building official determines that applications for building permits, development permits, utility permits or any other city permit, license or approval, present technical issues or problems requiring professional review expertise not available within the city staff, the city manager or building official may retain appropriate professional services for such outside review, as follows:

(1) When outside professional review is determined to be necessary, the applicant causing such review shall first be advised that further permit processing cannot be undertaken without such outside review.

(2) The applicant shall be advised of the expected cost of this outside review to determine if the applicant wishes to proceed with the review process. It is understood that this is an estimate only and the city cannot be held responsible for its reliability.

(3) The professional retained under this section shall be mutually agreed upon by the applicant and the city manager or building official. In the event mutual agreement cannot be reached, the matter may be brought before the city council by either party. Nothing in this

section shall be construed to limit or prohibit the retaining of appropriate professionals by the applicant, at any time and on his own volition.

(4) Billing for the necessary professional review shall be sent to the appropriate city department which, upon approval of the amount as a valid expense, shall submit such bill to the applicant at a rate of 110 percent to cover added administrative expenses.

(5) The bill will be payable within ten days prior to issuance of the requested permit, whichever time is less. Nonpayment of the invoice will automatically cause a halt to the application process unless otherwise determined by the city manager or building official. It shall be understood by all parties that liability for any debt incurred under this section shall run between the professional retained under this section and the applicant and not the city, except for the ten percent added administrative fee which shall be a debt owed the city. Nonpayment may be enforced and collected as a debt in a civil court by the professional retained under to whom the debt is owed.

(6) The procedures provided for in this section shall be subject to the Consultants Competitive Negotiation Act F.S. § 255.087 in its application to the city by the city council.

(b) *Appeal procedure.* Any applicant aggrieved by a determination of the city manager or building official may appeal such determination to the city council ~~State in accordance with the State's building code appeal procedures.~~ by filing with the city manager a petition in writing setting forth the grounds upon which the appeal is based within 30 days of such determination. The city manager shall forthwith schedule the appeal before the city council at the earliest regularly scheduled council meeting practicable. The city council may affirm, overrule or modify the determination of the city manager or his designee.

SECTION SIX. Sanibel Code of Ordinance Chapter 14 – BUILDINGS AND BUILDING REGULATIONS, ARTICLE IV – “PERMITS”, SECTION 14-188, FEE SCHEDULE, SUBSECTION (6) , is hereby added with strikethrough language indicating deletions and underlined language indicating additions as follows:

Sec. 14-188 - Fee schedule.

The following schedule shall constitute the schedule of fees under this chapter:

(1) Building permits.

Minimum permit fee (except temporary tent permit) 80.00

Revision to building permit (each submission) 80.00

Re-inspection fee (each) 42.75

Building permit when material and labor exceed \$750.00 1% of the value of the project

Moving permit 107.00

Relocation inspection, if required 107.00

Temporary certificate of occupancy 500.00

Demolition permit 53.25

Lawn sprinkler system permit:

Single-family dwelling 53.25

All others 80.00

Outside technical review:

110% of actual expense to the city

Habitable floor verification 53.25

Roofing permit:

1% of the value of the project

Minimum roofing permit fee 80.00

Administrative reimbursement fee for permit cancellation 25.00

(2) Electrical permits.

For issuing each permit \$37.50

In addition:

0—100 amp service:

New installation 37.50

Replacement of existing installation at same location 37.50

101—150 amp service:

New installation 42.75

Replacement of existing installation at same location 42.75

151—200 amp service:

New installation 53.25

Replacement of existing installation at same location 53.25

201—250 amp service:

New installation 64.25

Replacement of existing installation at same location 64.25

251—300 amp service:

New installation 74.75

Replacement of existing installation at same location 74.75

301—400 amp service:

New installation 85.50

Replacement of existing installation at same location 85.50

401—500 amp service:

New installation 107.00

Replacement of existing installation at same location 107.00

501—600 amp service:

New installation 128.00

Replacement of existing installation at same location 128.00

Over 600 amp service 150.00

Plus, per amp over 600 0.54

Replacement of existing installation at same location 0.44

Remodeling and alterations where service charge is not required:

1% of the value of the project

Minimum 37.50

Temporary pole 37.50

Re-inspection (each) 42.75

Outside technical review:

110% of actual expense to the city

Administrative reimbursement fee for permit cancellation 25.00

(3) Plumbing permits.

For issuing each permit \$37.50

In addition:

For each plumbing fixture, hose bib, floor drain, thermal backflow device, expansion device, or trap including water and drainage piping 5.35

or 1% of total job cost (whichever is greater)

For each house sewer 13.00

For each house sewer having to be replaced or repaired 13.00

For each septic tank and seepage pit or drainfield 13.00

For each water heater and/or vent 2.20

For each gas piping system of one to four outlets 3.25

For installation of water treating equipment 2.20

For each gas outlet over four, each outlet 2.20

For repair or alteration of drainage or vent piping 2.20

Sewer connection fee, each septic tank or sewer connection 37.50

Re-inspection (each) 42.75

Outside technical review:

110% of actual expense to the city

Administrative reimbursement fee for permit cancellation 25.00

(4) Mechanical repair.

For issuing each permit \$37.50

In addition:

Heating, ventilating, duct air conditioning, refrigeration, or other systems, per \$1,000.00 or portion thereof 53.25

Additional, per each \$1,000.00 or portion thereof 13.00

33,000 BTU (1 bhp) to 165,000 (5 bhp) 13.00

165,000 BTU (5 bhp) to 330,000 (10 bhp) 21.50

330,001 BTU (10 bhp) to 1,165,000 (52 bhp) 37.50

1,165,000 BTU (52 bhp) to 3,300,000 (98 bhp) 53.25

Over 3,300,000 BTU 80.00

Re-inspection fee for each re-inspection 42.75

Outside technical review:

110% of actual expense to the city

Administrative reimbursement fee for permit cancellation 25.00

(5) LP gas system permits.

Each activity (regardless of cost, including addition or alteration of piping):

1% of the value of the project

Minimum fee \$37.50

Re-inspection (each) 42.75

Outside technical review:

110% of actual expense to the city

Administrative reimbursement fee for permit cancellation 25.00

(6) Appeals.

Appeals \$480.00

Other requests requiring council action 480.00

~~(6)~~(7) Extensions of permits.

Requests for extension of permits:

10% of fee for permit, but not less than \$53.25

~~(7)~~(8) Vegetation certificates of competency.

Testing for a new vegetation contractor \$37.50

Testing for re-certification 37.50

* One retesting is free if is requested within 21 days after notice of failure

~~(8)~~(9) Other fees or charges.

Copies of forms of notice of commencement

(Statutory fee) \$5.00

~~(9)~~(10) Plan review fee.

Residential:

10% of the permit fee

Minimum fee \$80.00

Commercial:

25% of the permit fee

Minimum fee 80.00

~~(10)~~(11) Special timed inspection fee / per inspection \$100.00


SECTION SEVEN. 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 EIGHT. 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 NINE. 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.

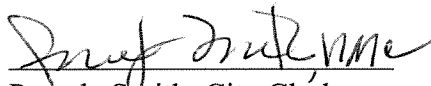
SECTION TEN. Effective Date. This ordinance shall be effective immediately upon adoption, however, any changes in fees set forth herein shall be effective as of October 1, 2018.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this
____ 7th day of August, 2018.




Kevin Ruane, Mayor

AUTHENTICATION:



Pamela Smith, City Clerk

APPROVED AS TO FORM



John D. Agnew, City Attorney

7/25/18
Date

Publication and Hearing Dates:

First Reading	<u>July 9, 2018</u>
Publication Date	<u>July 26, 2018</u>
Second Reading and Public Hearing	<u>August 7, 2018</u>

Vote of Council Members:

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

Date Filed with City Clerk: August 7, 2018