



City of Sanibel

Planning Department

MEMORANDUM

DATE: September 12, 2012

TO: Jim Jordan, Planning Director

FROM: Jim Fricke, Planner

SUBJECT: Sidewalk Sales – Special Events: Proposed Ordinance Changes

This memorandum and its attachments address a pending item on the Planning Department's work list, that being, proposed ordinance changes related to Sidewalk Sale Special Events (Section 110.58) and the associated signage regulations (Section 106.137).

Since Hurricane Charley, the City of Sanibel has been working with the business community to meet their expressed need for exposure to passing vehicle traffic. Over the years, with City Council approval, changes have been implemented administratively to meet this need while maintaining the island's unique aesthetic qualities. During this same time frame, the community's utilization of the Shared Use Paths has increased significantly. The corresponding increase in pedestrian and cycle traffic on the path provides the opportunity for attractive pedestrian scale signage.

One way the City has supported the request for additional sales promotion opportunities has been the administrative expansion of dates for retail businesses to conduct Sidewalk Sales Special Events. Recently, in response to a request for equitable treatment, City Council included restaurants with retail merchandise for sale.

The ordinance changes identified herein, if adopted, would codify expanded dates for authorized businesses to conduct permitted Sidewalk Sale Special Events. These changes would also add language for allow for temporary sidewalk sale signs which maintain community aesthetics.

In summary, if approved, the proposed changes would accomplish the following:

- Increase the total number of calendar days allowed for outside sidewalk sales

events from 37 to 67

- Expand eligible participation to include restaurants which legally have non-food merchandise for sale, but specifically exclude gas stations, markets, grocery, liquor, and convenience stores
- Address space allocated for sales and related pedestrian/customer access
- Provide temporary sign requirements (number, location, size) which are specific to Sidewalk Sales Events

The changes, as outlined, do not alter the permit fee, approval process, or other general requirements in place for Special Event permits.

With direction from City Council, the next step would be to prepare a draft ordinance for submittal to the Planning Commission for review and recommendation.

Attachments: Ordinance Change Proposal Document
PowerPoint Summary Presentation
Draft Ordinance Resolution

Ordinance Change Proposal – Holiday Sidewalk Sales and Related Signage

I. Issues Precipitating the Proposed Changes

- A. The City of Sanibel has been working with the local business community since Hurricane Charlie to meet their expressed need for exposure to passing vehicle traffic. Over the years, with City Council approval, changes have been implemented administratively to meet this expressed need while maintaining the island’s unique aesthetic qualities and rural character.
 - 1. During this same time frame, the community’s utilization of the Shared Use Paths has increased significantly. This corresponding increase in pedestrian and cycle traffic on the path provides the opportunity for attractive signage at a pedestrian scale.
- B. One way City Council has been responsive to the need for additional sales promotion opportunities has been through an administrative seasonal expansion, as a pilot, of the “Holiday Sidewalk Sales” dates.
- C. Most recently, restaurants which have non-food retail merchandise for sale were also included after feedback was received this group that it was not equitable to exclude them from these special sales events.
- D. Local business response has been positive and no significant negative impacts on the community, or inconsistencies with the Sanibel Plan have been encountered or raised to date.

II. Options

- A. Revert back to the current ordinance, which limits sidewalks sales to commercial retail establishments and allows for up to 37 days per year which are tied to specific Holidays.
- B. Retain the current ordinance but continue the current administrative practice, whereby the City Council provides temporary seasonal expansion of sidewalk sales dates, as it deems appropriate, including participation by restaurants.
- C. Direct staff to draft ordinance changes as outlined in Section III.C. below (or otherwise modified by City Council recommendations).
- D. Forward draft changes to the Planning Commission for review and recommendation.

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III. Summary of Current Code, Current Practice and Proposed Changes

- A. **Current Code:** (within “Special Events” – Section 110.58, Attached) allows for business owners which conduct commercial retail sales within the commercial district to conduct (with a permit) outside sidewalk sales, during specified holiday periods and durations, for up to a total 37 calendar days per year. Signage for these events is regulated by “Temporary Special Event Signs” - Chapter 106.137 (attached).
- B. **Current Administrative Practice:** City Council has approved several seasonal extended dates for Sidewalk Sales, beyond the Holiday Event Dates specified in ordinance, and have also allowed for the inclusion of restaurants selling retail merchandise.
- C. **Proposed Changes:**
1. Provide for a permanent increase in the number of calendar days allowed for outside sidewalk sales events. Recommendation is to retain the current holiday event allowance and provide 3 additional consecutive days per month, with the exception of February and December, where 6 days per month is already met or exceeded by the holiday event allowance. This change provides for up to a total of 67 calendar days per year for outside sidewalk sales events.
 2. Businesses would be required to identify all sale dates in advance, either at time of annual permit application, if already known and identified, or in any case, no less than 30 days prior to the sales event if the annual permit has already been issued. City of Sanibel will publish sale events for businesses on its website, as is the current practice for all permitted Special Events.
 3. Change all references from “Holiday Sidewalk Sales Special Events” to “Sidewalk Sales Events” so as to be inclusive of all proposed sidewalk sale dates.
 4. Expand the eligible commercial retail businesses being provided this opportunity to include restaurants which legally have non –food merchandise for sale.
 5. Specifically exclude markets, grocery stores, convenience stores, gas stations and liquor stores from conducting sidewalk sales.

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6. Specifically exclude all food items from being sold or offered at outside sidewalk sales.
 7. Regulate the amount of space allowed for outside sidewalk sales:
 - a) The lesser of 25% of business frontage or 100 square feet.
 - b) Allow for a minimum of 3 feet of safe and unobstructed pedestrian passage.
 - c) Functional and integrated access and internal circulation for people with disabilities must be maintained.
 8. Provide sign requirements specific to permitted Sidewalk Sales Events:
 - a) Number and location of signs allowed: One sign per business establishment permitted to conduct a Sidewalk Sales Events, to be located at the storefront and/or adjacent to the doorway and parallel to the business frontage. One sign per multi-occupancy commercial center, to be located at or near the point of street level public access, but not in the public right of way, which may be either parallel or perpendicular to the frontage, dependent on the site specific conditions.
 - b) Size of signs: Signs at the storefront cannot exceed 4 square feet; permitted street level signs cannot exceed 6 square feet.
 - c) Structure and Content of Signs: Signs shall be neat in appearance and sturdily constructed.
 - d) Temporary signs must be removed during a declared emergency or storm event.
- D. ***Ordinance Requirements of Note - Not Recommended for Modification:***
1. Permit application fee remains \$50.00.
 2. Temporary structures, other than racks and/or tables to display merchandise, are not authorized.
 3. Limitation on 3 consecutive days, excepting the Christmas Holiday as noted in the current ordinance.

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4. General conditions and approval requirements for Special Permits as provided for in the current ordinance remain.
5. General conditions for temporary signs still apply.

IV. Specific Code to be Modified

- A. Land Development – Chapter 110 – Special Events
 1. Definitions (Section 110-1)
 2. Permits (Sections 110-46 thru 110-58, as appropriate)
 3. Regulations (Section 110-82 – Associated Signs)
- B. Land Development Code – Chapter 106 - Signs
 1. Exemptions (Section 106-53)
 2. Regulations – Temporary Signs (Sections 106-131 thru 106-140, as appropriate)

V. Related Forms to be Modified

1. Special Events Permit Application

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Current Code

Sec. 110-58. - Holiday sidewalk sales special event permit.

The city manager may issue a holiday sidewalk sales special event permit, annually, to a licensed City of Sanibel business owner authorized to conduct commercial retail sales at their Sanibel business address if located within the City of Sanibel Commercial District. Application for a holiday sidewalk sales special event permit must be submitted to the city manager's office no later than seven days prior to the first holiday for which application is made, accompanied by a \$50.00 nonrefundable application fee. The issuance of a holiday sidewalk sales special event permit by the city manager shall authorize the business applicant to conduct holiday sidewalk sales (not to exceed 37 calendar days) on the following holidays:

- Martin Luther King, Jr. Day weekend (3rd Monday of January and 2 days prior)
- February 14—Valentine's Day (2 days prior to and the day of)
- February 20—President's Day (1 day prior, day of, and 1 day after)
- March 17—St. Patrick's Day (1 day prior, day of, and 1 day after)
- Easter weekend (Friday, Saturday and Sunday)
- Memorial Day weekend (Saturday, Sunday and Monday)
- July 4th Independence Day (1 day prior, day of, and 1 day after)
- Labor Day weekend (Saturday, Sunday and Monday)
- Columbus Day weekend (2nd Monday of October and 2 days prior)
- Thanksgiving Holiday (Friday, Saturday and Sunday)
- Christmas Holiday (weekend prior to and the week of December 25th)

The city manager or his/her designee may revoke the holiday sidewalk sales special event permit for violation of the terms and conditions, noncompliance with rules, local ordinances or for conducting sales outside of the above dates. A holiday sidewalk sales special permit does not authorize temporary structures other than those structures used to display merchandise such as sales racks and/or tables.

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Sec. 106-137. - Temporary special event signs.

Temporary special event signs shall only be erected, in accordance with the following standards:

(1)

Number. A maximum of one temporary special event sign announcing or advertising the special event shall be erected on the lot on which the special event takes place. The city manager may authorize directional signs with consideration given to public safety and the signage reasonably necessary and appropriate for the intended purpose.

(2)

Area and height. Temporary special event signs shall have a maximum sign face area of 12 square feet and a maximum height of four feet.

(3)

Sign structure and type. The sign structure shall be adequate to support the sign, as determined by the city manager, or his designee. The sign may be of any type, except it may not be a prohibited sign.

(4)

Location. The location of the temporary special event sign and directional signs shall be as approved by city manager as reasonably necessary and appropriate for the type of special event.

(5)

Timing and removal. Temporary special event signs may be erected the day of the event only.

CITY OF SANIBEL
ORDINANCE 12-011

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, SUBPART B LAND DEVELOPMENT CODE, IN CHAPTER 110 SPECIAL EVENTS, AMENDING ARTICLE I AND ARTICLE II FOR THE DEFINITION AND PERMITTING OF SIDEWALK SALE SPECIAL EVENTS; AMENDING CHAPTER 106 SIGNS, AND ADDING SECTION 106-140 TEMPORARY SIDEWALK SALE SIGNS; AMENDING SECTION 110-1 TO UPDATE DEFINITION FOR SIDEWALK SALE SPECIAL EVENT; AMENDING SECTION 110-49 FOR PERMIT APPLICATION LANGUAGE CONSISTENT WITH NEW DEFINITION; AMENDING SECTION 110-52 TO CORRECT CROSS REFERENCE; AMENDING SECTION 110-57 TO BE CONSISTENT WITH NEW DEFINITION; AMENDING SECTION 110-57 TO BE CONSISTENT WITH NEW DEFINITION; AMENDING SECTION 110-58 TO EXPAND SIDEWALK SALE SPECIAL EVENT DATES AND IDENTIFY ASSOCIATED PERMIT STANDARDS AND REQUIREMENTS; ADDING NEW SECTION 106-40 TEMPORARY SIDEWALK SALE SIGNS TO ESTABLISH STANDARDS SPECIFIC TO SIDEWALK SALE EVENT SIGNAGE; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a procedure has been established to revise and amend the Land Development Code in a manner consistent with the *Sanibel Plan*; 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, Florida:

SECTION 1. The Code of Ordinances of the City of Sanibel, Chapter 110 Special Events, Article I, Section 110-1 Definitions, is hereby amended with underlining indicating added language and ~~strikethroughs~~ indicating deletions, as follows:

Section 110-1 - Definitions

For the purpose of this chapter, the following words and terms shall have the meanings respectively ascribed:

Approved structure means any structure constructed and used in compliance with a development permit issued by the city or any structure constructed prior to the adoption of the city Code or this land development code which is being used in full compliance with the regulations of this land development code, chapter 126, article V in particular.

Garage sale means any sale, primarily of used goods, conducted at a residential dwelling unit by the owner or tenant thereof.

Holiday ~~Sidewalk sales~~ special event means any sidewalk sale of merchandise by a City of Sanibel licensed business, authorized to conduct commercial retail sales at their Sanibel business address if located in the City of Sanibel commercial district, pursuant to the relevant requirements of the Land Development Code.

Special event means any sale, grand opening, wedding, photo shoot, party, holiday celebration, bazaar, concert or other performance, fair, tent revival, fundraising event, art festival, race, tour, rally, parade, bicycle run, demonstration, contest, exhibition, block party, outdoor display, or similar event or occurrence, including the use of tents, or other devices or structures to conduct, advertise or promote any such event occurring on public or non-public lands or in a public right-of-way such as a public or non-public street, shared-use path, alley or other public place or building, park, beach, parking lot, vacant lot, in which a special event would inhibit the usual flow of pedestrian or vehicular travel or which occupies any public area or building so as to preempt use of said area by the general public or which deviates from the established use of said area or building, but such term does not include the following:

- (1) Any usual and customary noncommercial accessory use of a residential dwelling unit;
- (2) Any use or activity specifically approved by a development permit issued by the city; or
- (3) Private gatherings that will make no use of a public property other than for lawful parking;
- (4) Any garage sale conducted in compliance with the requirements of this chapter.

Student or youth group event means an event or activity which has the following characteristics:

- (1) All proceeds solely benefit the Sanibel student or youth group conducting the event;
- (2) A single day event generally lasting not longer than eight hours;
- (3) No vendor or related fees are charged (only the youth group fee or contribution is solicited);
- (4) The event is managed and conducted solely by volunteers;
- (5) Temporary and/or permanent structures are not required.

SECTION 2. The Code of Ordinances of the City of Sanibel, Chapter 110 Special Events, Article I, Section 110-49 Applications, is hereby amended with underlining indicating added language and ~~strike throughs~~ indicating deletions, as follows:

Section 110-49. - Applications.

(a) Applications for special event permits shall be submitted to the city manager, on forms provided by the city, at least 30 calendar days prior to the event, accompanied by a \$50.00 non-refundable application fee. The city manager may, however, accept an application made less than 30 calendar days prior to the event, accompanied by a \$5.00 per day non-refundable late fee in addition to the non-refundable application fee, if the applicant

demonstrates that changing the date will result in a hardship and that, due to circumstances beyond control of the applicant, the application could not reasonably have been made in time. Applications will not be accepted later than seven calendar days prior to the event. The application shall be signed by the owner of the land for which such a permit is requested or by the owner's authorized representative or designated agent. The property owner must submit, in writing, the owner's authorized agent or representative's name and contact information. Applications for a ~~holiday~~-sidewalk sales special events permit must be submitted no later than seven days prior to the first scheduled sale date ~~holiday~~ for which application is made, accompanied by a \$50.00 non-refundable application fee. Each application shall include or be accompanied by the following:

- (1) Complete information as to the type of activity planned; the date and time; the expected number of spectators and participants; any commercial activities included; the number, type, and location of any temporary structures to be used; the number, type, and location of any signs or advertising to be used; provisions made for parking; admission charge, if any; and the desired location, along with any factors particularly affecting the choice of location;
 - (2) The names and addresses of the applicants and sponsors of the activity other than the applicants; and
 - (3) The telephone number at which an applicant or other responsible party may be reached while the activity is occurring.
- (b) Limited application for student or youth group event.

The council finds that, in general, student or youth group events as defined in this division (including, by way of example and not limitation, student car washes) serve an important community purpose and require only a limited

city review in order to assure that each such event is conducted in compliance with applicable city regulations. Therefore, the city manager is authorized to prepare a limited application for a student or youth group event which provides sufficient information and detail for the city manager or her designee to confirm that such event is planned and conditioned in compliance with all applicable city regulations. There is hereby established a \$5.00 application fee for a student or youth group event.

SECTION 3. The Code of Ordinances of the City of Sanibel, Chapter 110 Special Events, Article I, Section 110-52 Permits for Multiple Events, is hereby amended with underlining indicating added language and ~~strike~~~~throughs~~ indicating deletions, as follows:

Section 110-52 - Permits for multiple events.

The city manager may, if sufficient information is provided by an applicant, issue one permit to cover more than one such activity in a calendar year, subject to the limitation of six special events for any one site or location, as provided in section 110-~~57~~ 55, unless a greater number is approved by the city council.

SECTION 4. The Code of Ordinances of the City of Sanibel, Chapter 110 Special Events, Article I, Section 110-57 Limit on Permits, is hereby amended with underlining indicating added language and ~~strike~~~~throughs~~ indicating deletions, as follows:

Section 110-57 - Limit on permits.

Unless approved by the city council, no more than six permits and one sidewalk ~~holiday~~-sales special event permit shall be issued pursuant to this chapter during any calendar year for special events on the same site or location. The city council may approve additional special events on the same site or location if

the granting of such additional events does not undermine or conflict with other city rules or policies.

SECTION 5. The Code of Ordinances of the City of Sanibel, Chapter 110 Special Events, Article I, Section 110-58 Holiday Sidewalk Sales Special Event Permit, is hereby amended with underlining indicating added language and ~~strikethroughs~~ indicating deletions, as follows:

Section 110-58 – ~~Holiday~~ Sidewalk sales special event permit.

The city manager may issue a ~~holiday~~ sidewalk sales special event permit, annually, to a licensed City of Sanibel business owner authorized to conduct commercial retail sales at their Sanibel business address if located within the City of Sanibel Commercial District. Application for a ~~holiday~~ sidewalk sales special event permit must be submitted to the city manager's office no later than seven days prior to the first scheduled sale event ~~holiday~~ for which application is made, accompanied by a \$50.00 nonrefundable application fee. The issuance of a ~~holiday~~ sidewalk sales special event permit by the city manager shall authorize the business applicant to conduct ~~holiday~~ sidewalk sales (not to exceed 37 calendar days) on the following holidays:

- Martin Luther King, Jr. Day weekend (3rd Monday of January and 2 days prior)
- February 14—Valentine's Day (2 days prior to and the day of)
- February 20—President's Day (1 day prior, day of, and 1 day after)
- March 17—St. Patrick's Day (1 day prior, day of, and 1 day after)
- Easter weekend (Friday, Saturday and Sunday)
- Memorial Day weekend (Saturday, Sunday and Monday)
- July 4th Independence Day (1 day prior, day of, and 1 day after)
- Labor Day weekend (Saturday, Sunday and Monday)
- Columbus Day weekend (2nd Monday of October and 2 days prior)

- Thanksgiving Holiday (Friday, Saturday and Sunday)
- Christmas Holiday (weekend prior to and the week of December 25th)

In addition, the business applicant may conduct sidewalk sales for up to 3 additional, consecutive days, but not in conjunction with the holiday events listed above, in the months of January, March, April, May, June, July, August, September, October, and November. Total annual sidewalk sales are not to exceed 67 calendar days.

The business applicant is required to identify all sale event dates at the time of annual permit application, if known, or in any case no less than 30 days prior to the sales event if the annual permit has already been issued.

The Sidewalk Sale Special Event permit authorizes a business to conduct outside sales of non-food and beverage retail merchandise only. Outside space dedicated to the display of merchandise is limited to the lesser of 25% of the applicant business frontage or 100 square feet. Outside merchandise display and sales areas must allow for a minimum of 3 feet of safe and unobstructed pedestrian passage and maintain functional and integrated access and internal circulation for people with disabilities.

Sidewalk Sale Special Event permits are limited to commercial retail establishments which legally offer non-food merchandise for sale, including restaurants, but excluding gas stations, markets, liquor stores, grocery stores and convenience stores.

The city manager or his/her designee may revoke the ~~holiday~~ sidewalk sales special event permit for violation of the terms and conditions, noncompliance with rules, local ordinances or for conducting sales outside of the above dates or the dates identified in the applicants permit. A ~~holiday~~ sidewalk sales special permit does not authorize temporary structures other than those structures used to display merchandise such as sales racks and/or tables.

SECTION 6. The Code of Ordinances of the City of Sanibel, Chapter 106 Signs, Article III Restriction and Regulations, Division 3 Temporary Signs Special Events, is hereby amended to add a new Section 106-140 Temporary Sidewalk Sale Signs with underlining indicating added language, as follows:

Section 106-140 – Temporary Sidewalk Sale Signs

Temporary sidewalk sale signs shall only be erected, in accordance with the following standards:

- (1) Number. A maximum of one temporary sidewalk sale sign announcing or advertising the event shall be erected per business storefront where the sidewalk sale takes place and/or per multi-unit occupancy commercial center where one or more businesses have an approved sidewalk sale special event permit.
- (2) Area and height. Temporary sidewalk sale signs at the business storefront shall have a maximum sign face area of 4 square feet. Temporary sidewalk sale signs for a multi-occupancy commercial center shall have a maximum face area of 6 square feet and a maximum height of 4 feet.
- (3) Sign structure and type. The sign structure shall be adequate to support the sign, as determined by the city manager, or his designee. The sign must be neat and not garish in appearance and may be of any type, except it may not be a prohibited sign.
- (4) Location. The location of the temporary sidewalk sale sign for a single business shall be at the storefront and/or adjacent to the doorway and parallel to the business frontage, but not in the public right of way. The location of the temporary sidewalk sale sign for a multi-occupancy commercial center shall be located at or near the point of street level public access, but not in the public right-of-way, and may be either parallel or perpendicular to the frontage, dependent on the site specific conditions.

(5) Timing and removal. All temporary sidewalk sale signs may be erected the day of the event only and must be removed during a declared emergency or storm event.

SECTION 7. Codification.

This ordinance shall be an amendment to the Code of Ordinances of the City of Sanibel, Subpart B of Part II. In Article I of Chapter 110, Sections 110-1, 110-49, 110-52, 110-57 and 110-58 are hereby amended. In Article III, Division 3 of Chapter 106 a new Section 106-140 is added,

SECTION 8. 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 9. 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 10. Effective date.

This Ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this _____ day of _____, 2013.

AUTHENTICATION:

Kevin Ruane, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM:

Kenneth B. Cuyler
Kenneth B. Cuyler, City Attorney

11/24/12
Date

Hearing Dates:

Date of First Reading: _____, 2012

Ordinance Publication Date: _____, 201__

Date of Second Reading and Public Hearing: _____, 2013

Vote of Council Members:

Ruane _____

Denham _____

Congress _____

Harrity _____

Jennings _____

Date filed with the City Clerk: _____