

**CITY OF SANIBEL
ORDINANCE 17-005**

AN ORDINANCE AMENDING THE SANIBEL CODE OF ORDINANCES, SUBPART B, LAND DEVELOPMENT CODE, CHAPTER 78-GENERAL PROVISIONS, SECTION 78-1 – RULES OF CONSTRUCTION AND DEFINITIONS, (c) FORMULA RETAIL STORE, TO REVISE THE DEFINITION OF FORMULA RETAIL STORE TO MEAN A TYPE OF RETAIL SALES ACTIVITY OR RETAIL SALES ESTABLISHMENT WITH THREE OR MORE STORE LOCATIONS; AND CHAPTER 126 – ZONING, ARTICLE IV – CONDITIONAL USES, SECTION 126-102 – FORMULA RETAIL STORES, (5), AND SECTION 126-1024. – MAXIMUM PERCENTAGE OF COMMERCIAL FLOOR AREA (BALANCE AND MIX OF BUSINESSES) OCCUPIED BY FORMULA RETAIL STORES TO INCREASE THE TOTAL AMOUNT OF COMMERCIAL FLOOR AREA OF FORMULA RETAIL FROM 50,000 SF TO 60,000 SF WHEN PLANNING COMMISSION REVIEW AND CITY COUNCIL APPROVAL IS REQUIRED FOR A NEW FORMULA RETAIL STORE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Council directed the Planning Commission and Staff to draft legislation amending the Land Development Code by revising the definition of a Formula Retail Store and increasing the total amount of commercial floor area whenever Planning Commission review and City Council approval is required for a new Formula Retail Store that exceeds the total amount of commercial floor area devoted to all formula retail stores within the City; and

WHEREAS, the City desires to protect and reinforce the unique character of the community so that Sanibel remains an attractive and desirable residential community; and

WHEREAS it is important to ensure that the City's regulations support the continuation of existing businesses and the establishment of new businesses that serve the residential segment of the community; and

WHEREAS, all required public notices and public hearings for this amendment have been properly given and held;

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

SECTION 1. the Sanibel Code of Ordinances, Subpart B, Land Development Code, Chapter 78 – General Provisions, Section 78-1 - Rules of Construction and Definitions, (c) Formula Retail Store, is amended with the following additions indicated by underlining, to read as follows:

Land Development Code Section 78-1, Rules of construction and definitions, the term **Formula retail store** means a type of retail sales activity or retail sales establishment, with three or more store locations, that is required by contractual or other arrangement to maintain any of the following:

- Standardized name of business
- Standardized business signage
- Standardized architecture
- Standardized (formula) array of merchandise
- Trademark
- Logo
- Uniforms

For the purposes of the city's commercial land use regulations, formula retail stores do not include establishments providing professional services, including, but not limited to, real estate offices, medical offices, dental offices, offices of health practitioners, banks, savings and loan associations, mortgage and securities brokers, accounting services, appraisers, cable television services, insurance agents, and interior decorators.

Formula retail stores do not include grocery stores, hardware stores, gasoline service stations and restaurants; however, see the definition of formula restaurant.

Furthermore, retail stores that have more than one location, but that had their original location in the city, are not defined as formula retail stores. The second location of a retail store, that had its original location in the city, is not defined as a formula retail store.

SECTION 2. The Sanibel Code of Ordinances, Subpart B – Land Development Code, Chapter 126 - Zoning, Article IV – Conditional Uses, Section 126-102 – Formula Retail Stores, (5), is amended with the following deletion indicated by ~~strikethrough~~ and addition indicated by underlining, to read as follows:

Land Development Code Section 126-102. - Formula retail stores.

- (5) The formula retail store shall not imbalance the variety and mixture of retail, office, and service uses that make up the commercial sector of the community.

A conditional use application for a new formula retail store that results in the total commercial floor area used by formula retail stores in all of the city's commercial districts to exceed ~~50,000~~ 60,000 square feet, or as may be adjusted pursuant to section 126-1024 of this Code, requires planning commission review and city council approval, subject to the following conditions, in addition to the prior five conditions listed in this section:

- (6) The formula retail store, in aggregation with other formula retail stores in the city, shall not produce an imbalance between the resident-serving and resort (tourist) segments of the commercial sector of the community.
- (7) The formula retail store, in aggregation with other formula retail stores in the city, shall not frustrate the city's desire to retain a unique and diverse service and retail base in the local economy and to provide opportunities for small, local businesses.
- (8) The formula retail store, in aggregation with other formula retail stores in the city, shall not discourage the continuation of existing businesses or establishment of new businesses that serve the residential segment of the community.
- (9) The formula retail store, in aggregation with other formula retail stores in the city, shall retain the historical and visual character of the commercial sector.
- (10) The most basic of all of the economic assumptions for Sanibel's planning is that Sanibel's economic fortune is directly related to the viability of its natural systems. The formula retail store, in aggregation with other formula retail stores in the city, must not place added demand on Sanibel's natural and human made infrastructure. Sanibel must protect the environment because of the responsibility entrusted to the people of Sanibel to care for these resources, but also as a component of a sound economic policy. The economic base of Sanibel is the environment.

City council review of the conditional use application will be in accordance with the authorization, requirements and conditions established for the planning commission review of conditional use applications in sections 82-201, 82-202 and 82-203 of this Code.

SECTION 3. The Sanibel Code of Ordinances, Subpart B, Land Development Code Chapter 126 – Zoning, Article XIV- Supplementary District Regulations, - Division 5 – Commercial and Institutional Uses Generally, Section 126-1024 - Maximum percentage of commercial floor area (balance and mix of businesses) occupied by formula retail stores, is amended with the following deletion indicated by ~~strike through~~ and addition indicated by underlining, to read as follows:

Land Development Code Section 126-1024. - Maximum percentage of commercial floor area (balance and mix of businesses) occupied by formula retail stores.

In order to maintain Sanibel's economic viability and diversity, community character and unique composition of island serving commercial land uses, the total floor area of all permitted formula retail stores, as defined in section 78-1, rules of construction and definitions, shall not exceed ~~50,000~~ 60,000 square feet, unless a conditional use permit is issued by city council pursuant to section 126-102, formula retail stores.

The city manager or the manager's designee shall maintain an inventory of commercial land uses, including formula retail stores, within the GC general commercial district, the TCG town center general commercial district and the TCL town center limited commercial district. The commercial land use inventory shall be updated on an annual basis or at the request of city council.

City council shall consult the commercial land use inventory and the Sanibel Plan, including the economic assumptions of the plan, other relevant information and a report from the planning commission when considering an application for a conditional use permit seeking an expansion of the total number of square feet devoted to formula retail uses

SECTION 4. Codification. In Chapter 78, Subpart B of the Sanibel Code of Ordinances, Section 78-1 is hereby amended. In Chapter 126, Subpart B of the Sanibel Code of Ordinances, Chapter 126 - Zoning, Article IV – Conditional Uses, Section 126-102 – Formula Retail Stores, (5) is hereby amended. In Chapter 126 – Zoning, Article XIV Supplementary District Regulations, Division 5, Commercial and Institutional Uses Generally – Section 126-1024 is hereby amended. 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.

SECTION 5. 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 6. 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 7. Effective Date. This ordinance shall be effective immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this 7th day of November, 2017.

AUTHENTICATION:



Kevin Ruane, Mayor



Pamela Smith, City Clerk

APPROVED AS TO FORM: Kenneth B. Cuyler
Kenneth B. Cuyler, City Attorney

11/1/17
Date

Publication and Hearing Dates:
First Reading October 03, 2017
Publication Date October 26, 2017
Second Reading November 07, 2017

Vote of Council Members:

Ruane aye
Denham aye
Goss aye
Maughan aye

Date Filed with City Clerk: November 07, 2017