

**CITY OF SANIBEL
ORDINANCE 18-001**

AN ORDINANCE AMENDING THE SANIBEL CODE OF ORDINANCES, CHAPTER 6- ALCOHOL BEVERAGES, SECTION 6-3. SALE OF FOOD PREREQUISITE TO ON-PREMISE SALE OF BEVERAGES, TO EXEMPT PERFORMING ARTS CENTERS AND LIVE PERFORMANCE THEATERS FROM THE PREREQUISITE SALE OF FOOD REQUIREMENT AND TO ALLOW THE ON-PREMISE SALES, SERVICE AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT SUCH FACILITIES OF THE ARTS IN ACCORDANCE WITH THE PROVISIONS OF APPLICABLE FLORIDA STATUTES; AND AMENDING SECTION 6-1., DEFINITION BY ESTABLISHING A DEFINITION FOR PERFORMING ARTS CENTERS AND LIVE PERFORMANCE THEATERS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the on-premise sale and consumption of alcoholic beverages is offered by many Performing Arts Centers and Live Performance Theaters located around the country and is a recognized and customary service expected by patrons; and

WHEREAS, Performing Arts Centers and Live Performance Theaters that qualify under Florida Statue may obtain license and permit approval from the State’s Division of Alcohol and Tobacco for the on-premise sales and consumption of alcoholic beverages without offering food sales or services; and

WHEREAS, the Sanibel Code of Ordinances only permits the on-premise sales and consumption of alcoholic beverages when incidental to a restaurant use or other types of food service businesses; and

WHEREAS, a procedure has been established to revise and amend regulations contained in the Sanibel Code of Ordinances; and

WHEREAS, City Council may also deem it necessary from time to time to make such revisions, such as contained in this ordinance, that enhances the socialization experiences of the community; and

WHEREAS, all required public notices and public hearings for such revisions have been properly given and held; and

WHEREAS, such revisions have been referred to the Planning Commission for a recommendation and the Planning Commission has found such revisions and this Ordinance to be consistent with the *Sanibel Plan*;

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

SECTION 1. Sanibel Code of Ordinance Chapter 6 – Alcohol Beverages **Section 6-1., – Definitions** is hereby amended with the underlining indicating new added language and strikethrough indicating deleted language to read as follows:

CHAPTER 6 – ALCOHOLIC BEVERAGES

Sec. 6-1 Definitions.

Except where specifically defined in this section, the words and terms contained in this chapter shall have the same meanings as the same terms contained in F.S. chs. 561, 562, 563, 564 and 565, and in F.S. § 316.1936.

(a) The following words and phrases shall have the meanings indicated unless the text of the article or section in which used clearly indicates otherwise:

1. **"Performing Arts Center"** means a facility with conditional use approval consisting of not less than 200 seats, owned and/or operated by a not-for-profit corporation qualified as an exempt organization under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding section of a subsequently enacted federal revenue act, which is used and occupied to promote the development and appreciation of any and all of the performing, visual or fine arts, including fine arts-based activities and events intended to entertain, educate and cultivate the public's appreciation, enjoyment, and knowledge of the fine arts.
2. **"Live Performance Theater"** means a facility with conditional use approval consisting of not less than 100 seats, owned and/or operated by a not-for-profit corporation qualified as an exempt organization under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding section of a subsequently enacted federal revenue act, which is used and occupied to produce and present live performances of plays, concerts, musicals, dance, opera, lectures, including motion pictures, and other categories of the fine, performing and visual arts.

SECTION 2. Sanibel Code of Ordinance Chapter 6 – Alcohol Beverages **Section 6-3., - Sale of food prerequisite to on-premise sale of beverages** is hereby amended with the underlining indicating new added language to read as follows:

With the exception of Performing Arts Centers and Live Performance Theaters, permitted as a conditional use, the sale of alcoholic beverages for on-premises consumption will be permitted only as an incidental use to the sale of food for on-premises consumption, and restaurants or other food businesses permitted to serve alcoholic beverages under this chapter shall provide that food service facilities will remain open serving appropriate food items on the menu at all times coincident with the sale of alcoholic beverages.

Performing arts centers and a live performance theaters that meet the definitions set forth in section 6 – 1 of this Chapter and which qualify for licensing and permitting under the applicable State of Florida statutes and requirements regulating on-premises consumption of alcoholic beverages may engage in the on-premise sale and consumption of alcoholic beverages in accordance with such State of Florida alcoholic beverage regulations and are exempt from the prerequisite requirement of also providing on-premise food sales.

The on-premise sales and consumption of alcoholic beverages at Performing Arts Centers and Live Performance Theaters may only occur during their arts-based activities or only other related artistic, educational, cultural, fundraising, promotional, civic or charitable events.

SECTION 3. Codification. In Chapter 6 Alcoholic Beverages of the Sanibel Code of Ordinances, Section 6 – 1 Definitions and Section 6-3., - Sale of food prerequisite to on-premise sale of beverages 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.

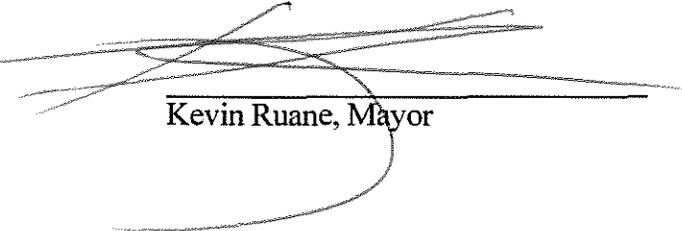
SECTION 4. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed and the remainder shall have full force and effect and be liberally construed.

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.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this 6th day of February, 2018.

AUTHENTICATION:


Kevin Ruane, Mayor


Pamela Smith, City Clerk

APPROVED AS TO FORM


Kenneth B. Cuyler, City Attorney


Date

Publication and Hearing Dates:

First Reading January 08, 2018
Publication Date January 25, 2018
Second Reading February 06, 2018

Vote of Council Members:

Ruane Yea
Denham Yea
Goss Yea
Maughan Excused
Smith Yea

Date Filed with City Clerk: February 06, 2018