ORDINANCE NO. 19-004

AN ORDINANCE OF THE CITY OF SANIBEL, LEE COUNTY, FLORIDA, AMENDING THE SANIBEL CODE OF ORDINANCES, CHAPTER 10, ARTICLE III. DOGS, DIVISION 1. GENERALLY, ESTABLISHING, PURSUANT TO SECTION 509.223, FLORIDA STATUTES, A LOCAL EXEMPTION TO CERTAIN PROVISIONS OF GENERAL LAW AND AGENCY RULES RELATING TO PUBLIC FOOD SERVICE ESTABLISHMENTS IN ORDER TO PERMIT PATRONS' DOGS AT CERTAIN DESIGNATED OUTDOOR PORTIONS OF SUCH ESTABLISHMENTS; PROVIDING FOR IMPLEMENTATION AND ENFORCEMENT PROCEDURES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, based on the preferences of certain local restaurants, the City Council of the City of Sanibel, Florida determines it desirable to modify the Sanibel Code of Ordinances, by permitting public food service establishments in the City of Sanibel to become exempt from certain portions of the Food and Drug Administration Food Code, as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of their respective establishments;

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

SECTION 1. The above recitals are true and correct and by this reference are hereby incorporated herein and made an integral part hereof as though fully set forth herein.

SECTION 2. That the Sanibel Code of Ordinances, Chapter 10, Section 10-66....is hereby amended to read as follows:

Section 10-66. Dogs ~~P~~prohibited in food establishments without a permit.

(a) With the exception of service dogs, ~~D~~dogs are not permitted in any public market, grocery store, delicatessen, restaurant or like establishments that deal in food products, except as provided in this section.

(b) Pursuant to Section 509.233, Florida Statutes, there is hereby created in the City of Sanibel, Florida, a local exemption procedure to allow patrons' dogs within certain designated outdoor portions of a "public food service establishment" which term for use in application of this Section, shall have the same meaning as provided in Section 509.013, Florida Statutes.

1. Permit Required; Application Submittals

a. No dog shall be in a public food service establishment unless allowed by state law and the public food service establishment has received and maintains an unexpired permit pursuant to this section allowing dogs in designated outdoor areas of the establishment.

b. Applications for a permit under this section shall be made to the Community Services Department, on a form provided for such purpose, and such application shall include, along with any other such information deemed reasonably necessary in order to implement and enforce the provisions of this section, the following information:

(1) The name, location, and mailing address of the public food service establishment, as well as the appropriate State of Florida, Division of Hotels and Restaurants issued license number for the subject public food service establishment;

(2) The name, mailing address, and telephone contact information of the permit applicant;

(3) A diagram and description of the outdoor area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the permitting authority. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional. A copy of the approved diagram shall be attached to the permit;

(4) A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area;

c. The City Council may adopt by resolution reasonable fees necessary to establish a reasonable fee to cover the costs of processing any initial or renewal application, permitting, and inspection.

2. General Regulations; Cooperation; Enforcement

a. In order to protect the health, safety, and general welfare of the public, and pursuant to Section 509.233, Florida Statutes, all permits issued pursuant to this section are subject to the requirements contained within Section 509.233, Florida Statutes, including, but not limited to:

(1) All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling dogs. Employees shall be prohibited from touching, petting, or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.

(2) Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.

(3) Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.

(4) Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.

(5) Dogs shall not be allowed on chairs, tables, or other furnishings.

(6) All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.

(7) Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area. The contents of the kit shall be identified at the time of application and approved by the city manager or his/her designee.

(8) At least one sign reminding employees of the applicable rules including those contained in this subsection, and those additional rules and regulations, if any, included as further conditions of the permit, shall be posted in a conspicuous location frequented by employees within the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8 ½" x 11") and printed in easily legible typeface of not less than twenty (20) point font size. The number and location of the sign(s) shall be determined by the city manager or his/her designee.

(9) At least one sign reminding patrons of the applicable rules including those contained in this subsection, and those additional rules and regulations, if any, included as further conditions of the permit by the city manager or his designee, shall be posted in a conspicuous location within the designated outdoor portion of the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8 ½" x 11") and printed

in easily legible typeface of not less than twenty (20) point font size. The number and location of the sign(s) shall be determined by the city manager or his/her designee.

(10) At least one sign shall be posted in a conspicuous and public location near all entrances to the designated outdoor portion of the public food service establishment, the purpose of which shall be to place patrons on notice that the designated outdoor portion of the public food service establishment is currently available to patrons accompanied by their dog or dogs. The mandatory sign shall be not less than twelve inches in width and fifteen inches in height (12" x 15") and printed in easily legible typeface of not less than twenty (20) point font size. The notice shall state in like or similar language "Dogs are permitted in outdoor seating areas".

(11) Dogs shall not be permitted to travel through indoor or non-designated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment must not require entrance into or passage through any indoor area of the food establishment.

b. A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale or transfer of a public food service establishment, but shall expire automatically upon such sale or transfer. The subsequent owner shall be required to reapply for a permit pursuant to this section if such owner wishes to continue to accommodate patron's dogs.

c. Permits shall expire on September 30th of each year, and any required annual renewal fee for the following year shall be due and payable on the same date, concurrent with payment of a business tax receipt.

d. Any public food service establishment that fails to comply with the requirements of this section shall be in violation of the Sanibel Code, with each day a violation exists constituting a separate and distinct offense. A violation shall be subject to any and all enforcement proceedings consistent with the applicable provisions of the Code and general law, including but not limited to immediate revocation of permit with notice as prescribed by code enforcement notifications set forth in Chapter 162, Florida Statutes. A public food service establishment may appeal the revocation of the permit within fifteen (15) days of the receipt of notice of revocation by providing notice of such appeal to the city manager. Such appeal shall be heard by the City's Hearing Examiner within forty-five (45) days of the city manager's receipt of the appeal.

SECTION 3. 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 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. Severability. 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 2nd day of April, 2019.

First Reading: March 19, 2019
Publication: March 22, 2019
Second Reading: April 2, 2019

AUTHENTICATION:

Kevin Ruane, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: _____ 3/20/19
John Agnew, City Attorney Date

Vote of Council Members:

Ruane	yea
Denham	yea
Johnson	yea
Maughan	yea
Smith	yea

Date Filed with City Clerk: April 2, 2019