7. First Reading of an ordinance and scheduling of public hearing. (Note: The First Reading is not a public hearing and no discussion or testimony will be taken unless the ordinance changes permitted conditional or prohibited uses as required by State Statute.)

b. **ORDINANCE 10-007 PERTAINING TO BRAZILIAN PEPPER ERADICATION; AMENDING SUBSECTION 2 (b) OF ORDINANCE NO. 98-002 BY AMENDING THE BRAZILIAN PEPPER ERADICATION MAP REFERRED TO IN THAT SECTION; BY IMPLEMENTING A NEW MANDATORY BRAZILIAN PEPPER ERADICATION ZONE NO. 5, IN ADDITION TO MANDATORY ERADICATION ZONE 1 REFERRED TO IN SECTION 3 OF ORDINANCE 98-02, ZONE 2 IN SECTION 2 OF ORDINANCE 00-15, ZONE 3 IN SECTION 2 OF ORDINANCE 02-07, AND ZONE 4 IN SECTION 2 OF ORDINANCE 05-008; DIRECTING THE CITY MANAGER TO MAINTAIN ON FILE IN THE PUBLIC RECORDS A COPY OF THE BRAZILIAN PEPPER ERADICATION MAP AS AMENDED AND THE DESCRIPTION OF THE MANDATORY ERADICATION ZONES (1, 2, 3, 4, AND 5); PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.**

CITY OF SANIBEL

ORDINANCE NO. 10-007

AN ORDINANCE PERTAINING TO BRAZILIAN PEPPER ERADICATION; AMENDING SUBSECTION 2 (b) OF ORDINANCE NO. 98-002 BY AMENDING THE BRAZILIAN PEPPER ERADICATION MAP REFERRED TO IN THAT SECTION; BY IMPLEMENTING A NEW MANDATORY BRAZILIAN PEPPER ERADICATION ZONE NO. 5, IN ADDITION TO MANDATORY ERADICATION ZONE 1 REFERRED TO IN SECTION 3 OF ORDINANCE 98-02, ZONE 2 IN SECTION 2 OF ORDINANCE 00-15, ZONE 3 IN SECTION 2 OF ORDINANCE 02-07, AND ZONE 4 IN SECTION 2 OF ORDINANCE 05-008; DIRECTING THE CITY MANAGER TO MAINTAIN ON FILE IN THE PUBLIC RECORDS A COPY OF THE BRAZILIAN PEPPER ERADICATION MAP AS AMENDED AND THE DESCRIPTION OF THE MANDATORY ERADICATION ZONES (1, 2, 3, 4, AND 5); PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sanibel Island's diverse and extraordinary native vegetation is one of its most cherished assets, is essential to Sanibel's natural environment, and provides the natural habitat for Sanibel's diverse wildlife populations; and

WHEREAS, the City of Sanibel deems the protection and preservation of the city's native vegetation to be necessary for the health, safety, and welfare of the City and its citizens; and

WHEREAS, it has been determined by the City of Sanibel that the exotic species known as Brazilian Pepper (Schinus terebinthifolius), is extremely detrimental and destructive to the sensitive native vegetation on Sanibel because of its tendency to out-compete desirable native vegetation and destroy wildlife habitat and is thus recognized as a public nuisance and a threat to the health, safety, and welfare of the City and its citizens; and

WHEREAS, Brazilian Pepper is difficult and expensive to eradicate due to its tendency to spread beyond the source, thereby creating a nuisance upon both public and private property beyond the source; and

WHEREAS, Brazilian Pepper has little or no utility and what utility there may be is far outweighed by the damage caused to native species; and

WHEREAS, The City of Sanibel, through the adoption of its Plan and its Land Development Code has established rules, regulations and procedures designed to control, remove and eventually eradicate Brazilian Pepper from Sanibel; and

WHEREAS, City Council pursuant to such policies and Resolution No. 97-89, established a program of providing support and assistance to property owners willing to voluntarily remove Brazilian Pepper from their properties, and continues to maintain the program; and

WHEREAS, The City has implemented and carried out a program to remove Brazilian Pepper where it has propagated in undeveloped areas and has urged owners of private property with Brazilian Pepper to remove their plants on a voluntary basis partially at the City's expense; and

WHEREAS, there remain a number of owners of private property where Brazilian Pepper is present who have not removed the Brazilian Pepper on a voluntary basis; and

WHEREAS, it is essential to Sanibel to eradicate all Brazilian Pepper from such properties and that it be kept from returning to properties located in Sanibel; and

WHEREAS, Brazilian Pepper is so prevalent in Sanibel that the eradication program must occur in steps so that physical and financial resources can be reasonably applied and so as to minimize the disruption of the island;

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

SECTION 1. Subsection 2(b) of Ordinance No. 98-02 is hereby amended, by amending the Brazilian Pepper Eradication Map referred to in said subsection, in order to implement a new mandatory Brazilian Pepper Eradication Zone, No. 5, as provided herein. [Reference: See Section 14-292 of the Sanibel Code.]

SECTION 2. In addition to the mandatory Brazilian Pepper Eradication Zone 1, created in Section 3 of Ordinance No. 98-02, and Brazilian Pepper Eradication Zone 2, created in Section 2 of Ordinance No. 00-15, the Brazilian Pepper Eradication Zone 3 created in Section 2 of Ordinance No. 02-07, and the Brazilian Pepper Eradication Zone 4 created in Section 2 of Ordinance No. 05-008, there is hereby created a new mandatory zone for implementation of the Brazilian Pepper Eradication Program under this ordinance, to be called Brazilian Pepper Eradication Zone 5. Zone 5 includes all property in the City situated west of the centerline of Tarpon Bay Road and east of the centerline of Rabbit Road between San Carlos Bay and the Gulf of Mexico. (see map).

SECTION 3. The Brazilian Pepper Eradication map dated May 6, 2005 is hereby replaced with the Brazilian Pepper Eradication map dated July 20, 2010, a copy of which is incorporated herein and attached to this ordinance, which shall be kept on file with the City Manager. The Mandatory Brazilian Pepper Eradication Program shall be implemented for Zone 5 effective 90 days after the effective date of this ordinance.

SECTION 4. Codification. This ordinance shall be deemed an amendment to 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 take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this ____day of _____, 2010.

AUTHENTICATION:

_____ _____

Kevin Ruane, Mayor Pamela Smith, City Clerk

APPROVED AS TO FORM: Kenneth B. Cuyler 5/25/10

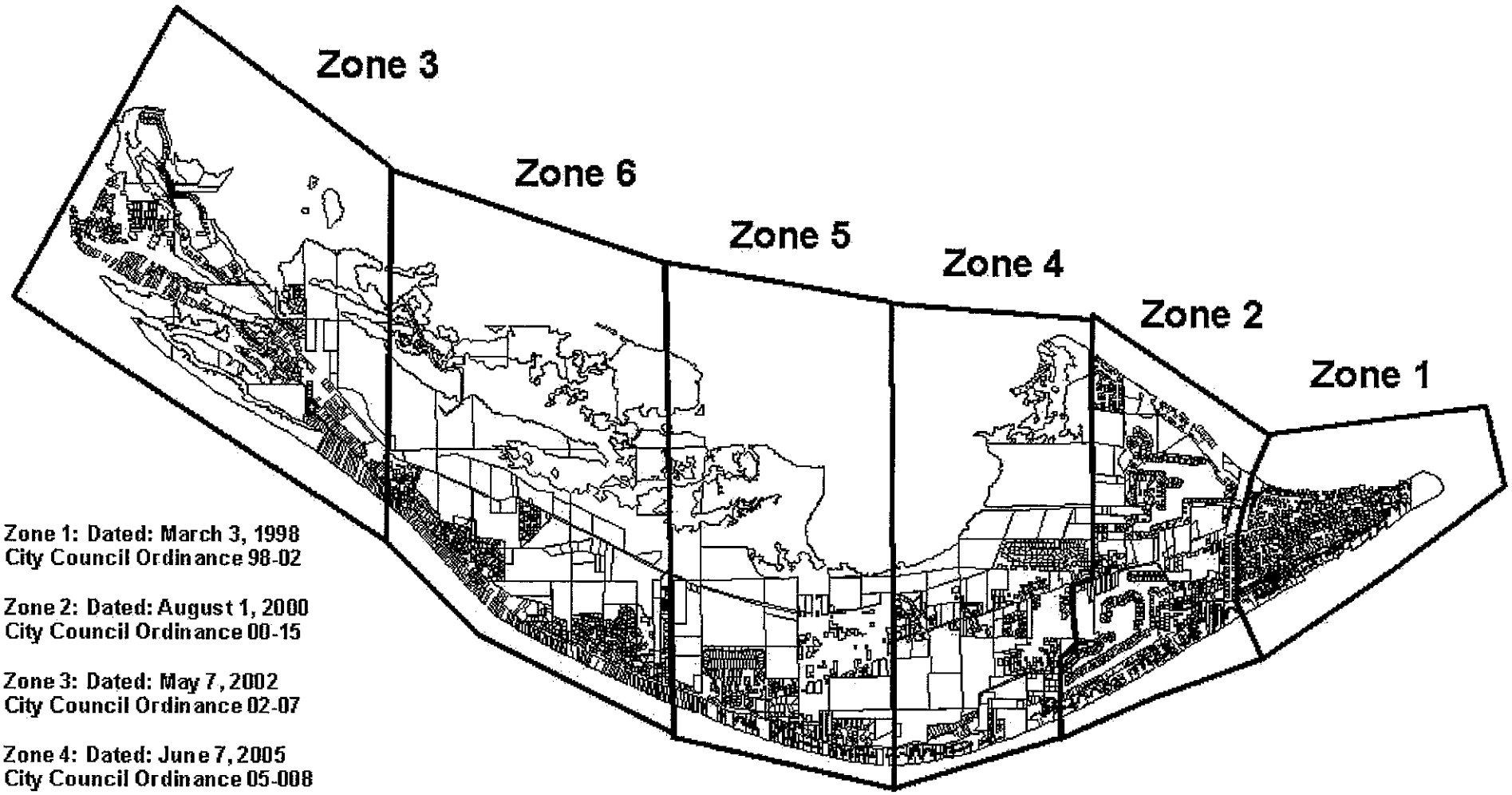
Kenneth B. Cuyler, City Attorney Date

First Reading: June 1, 2010
Publication Notice: _____
Second Reading: _____

Council Members Vote:

Ruane _____
Denham _____
Harrity: _____
Jennings _____
Pappas _____

Date Filed With City Clerk: _____



Zone 1: Dated: March 3, 1998
City Council Ordinance 98-02

Zone 2: Dated: August 1, 2000
City Council Ordinance 00-15

Zone 3: Dated: May 7, 2002
City Council Ordinance 02-07

Zone 4: Dated: June 7, 2005
City Council Ordinance 05-008

Zone 5: Dated: July 20, 2010
City Council Ordinance 10-008

Zone 6: Voluntary

City of Sanibel
800 Dunlop Road
Sanibel, FL 33957
(239) 472-3700

N

Brazilian Pepper Zone Map

Location Map

Date: July 20, 2010

0 0.5 1 2 3 Miles