

**CITY OF SANIBEL
RESOLUTION 24-043**

A RESOLUTION ESTABLISHING A TEMPORARY USE PERMIT FOR BEACH CLUB DAY PASSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 26, 2022, the City Council of the City of Sanibel passed Resolution No. 22-054, declaring a State of Local Emergency, based upon the severe threat to the health, safety, and welfare of the City posed by Hurricane Ian; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall in Lee County as a Category 4 hurricane, causing catastrophic property damage; and

WHEREAS, damages directly impacting the City of Sanibel include widespread damage and destruction of infrastructure, public property, and private property; and

WHEREAS, the City Council has authorized numerous Ordinances and Resolutions since Hurricane Ian's landfall to specifically assist residents and businesses recover from the impacts of the storm; and

WHEREAS, "beach club," as that term is defined in the Sanibel Land Development Code, Section 78-1, includes day membership or fee for daily use of the beach, has been a prohibited use on Sanibel, pursuant to Section 126-35 of the land development code since 1985; and

WHEREAS, a "beach club" as a permanent use is inconsistent with the Sanibel Plan, both in the overarching Vision Statement and in specific goals, objectives, and policies of the plan, and specifically with Objective 7 of the Coastal Zone Protection Element and its implementing policies, which state:

"The carrying capacity and environmental quality of the Island's natural coastal areas cannot be sustained if both off-Island and on-Island physical growth and visitation pressures are not addressed. ...

Objective 7 - Ensure that preservation of the natural beaches and beach carrying capacity for wildlife is maintained for environmental, social, economic and historic reasons, all of which are essential to the community's quality of life and economy.

Policy 7.1. Development, redevelopment and commercial activities shall not measurably degrade the use of the beach habitat by indigenous and migratory species of wildlife.

Policy 7.2. Development and human activities shall be limited to a level of use that can be accommodated and continued without irreversible impairment of the beach's natural resource productivity."; and

WHEREAS, at its July 16, 2024, meeting, the City Council discussed authorizing legislation that would temporarily allow Sanibel resort properties to issue beach club day passes, directing staff to bring forward a Resolution for consideration that would establish minimum standards for the temporary issuance of beach club day passes at qualifying resort properties as

a means to assist resort properties generate business while structures are under repair or reconstructed; and

WHEREAS, the City Council wishes to acknowledge that much of the resort housing district is still recovering from Hurricane Ian, which has resulted in reduced access to the beach for human activities, and therefore wishes to temporarily allow day membership or a fee for daily use of the beach for a limited time period through the issuance of a temporary use permit.

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

SECTION 1. The recitals above are true and correct and made a part hereof.

SECTION 2. A temporary use permit allowing a day membership or fee for daily use of the beach is hereby established, subject to the following conditions:

1. The Temporary Use Permit for Beach Club Day Passes is available only to businesses operating lawfully within the resort housing district and licensed by the Florida Department of Business & Professional Regulation (DBPR) as a hotel or motel.
2. The beach club day passes are intended to replace resort housing dwelling units unavailable to rent due to reconstruction or repairs post storm.
3. A temporary use permit must be obtained through the Planning Department.
4. No fee shall be required for such permit.
5. A site plan and narrative explanation must be provided demonstrating that the resort has permanent staffing, parking, and permanent restroom facilities available for use by patrons and adequate to meet anticipated demands. The site narrative must also demonstrate that the property is expected to have resort housing dwelling units available for rent within six months of the date of application for a temporary use permit.
6. Sales of day passes per resort shall be limited to the lesser of the following: (a) a number not to exceed on-site parking capacity; or (b) two and a half times the number of resort housing dwelling units currently unavailable to be rented due to storm related damage (the latter being used as an estimated typical occupancy of 2.5 persons/unit).
7. Each permit holder must report monthly to the Planning Department the number of day passes sold.
8. No new uses are approved by issuance of the temporary use permit, such as beach equipment rentals, restaurants, gift shops, etc. Uses on the resort are limited to those approved prior to Hurricane Ian.
9. A temporary use permit issued through this allowance will be subject to all other applicable provisions of the Sanibel Plan and Sanibel Code, including marine turtle lighting, signage, and special event permitting requirements.
10. No new permanent structures nor any portable use toilets will be permitted in support of the temporary use.
11. A temporary use permit issued through this allowance will be subject to any other conditions deemed necessary by the city manager or designee to protect the carrying capacity of the beach.

- 12. All temporary use permits issued through this allowance will expire six months from the date of issuance, or upon the issuance of a certificate of completion or occupancy for the resort housing dwelling units, whichever comes first. For good cause shown, including unforeseen circumstances delaying post storm reconstruction or repairs to a resort housing district property operating a “beach club” with a temporary use permit, that property may request a 3-month extension from the Planning Department.
- 13. Any violations of the conditions of the temporary use permit may result in immediate suspension or revocation of the permit by the Planning Department.
- 14. Any operation of a ‘beach club’ without first obtaining a temporary use permit can provide a basis for determining ineligibility of the temporary use permit and will be referred to code enforcement and may be enforced by bringing the case to a special master or by citation under Section 162.21, Florida Statutes (as may be amended), and 76-435 Laws of Florida (as may be amended), or by any other means allowable by law.

SECTION 3. This resolution shall be effective immediately upon adoption and shall continue for a period of one year, though and until July 30, 2025, unless earlier terminated, extended, or otherwise modified by the City Council.

PASSED IN OPEN AND SPECIAL SESSION OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, THIS 30TH DAY OF JULY 2024.

Attest:

Scotty Lynn Kelly, City Clerk

Richard Johnson, Mayor

Approved as to form and legality:

John D. Agnew, City Attorney

Date filed with City Clerk: _____

Vote of Council Members:

| | |
|---------|-------|
| Johnson | _____ |
| Miller | _____ |
| DeBruce | _____ |
| Henshaw | _____ |
| Smith | _____ |