

**CITY OF SANIBEL
MAYORAL PROCLAMATION 23-04**

**AN EMERGENCY PROCLAMATION OF THE MAYOR OF THE CITY OF SANIBEL
RELATING TO THE DECLARED STATE OF LOCAL EMERGENCY PERTAINING TO
HURRICANE IAN; AMENDING CURFEW; AUTHORIZING OUTDOOR DISPLAY OF
MERCHANDISE UNDER CERTAIN CONDITIONS; 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, the City's declaration followed similar declarations of emergency by Governor Ron DeSantis, President Joseph Biden, Jr., and the Board of County Commissioners of Lee County; and

WHEREAS, on the morning of September 27, 2022, Lee County issued a mandatory evacuation order, which included the entirety of the territory within the municipal limits of the City of Sanibel; and

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

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

WHEREAS, Chapter 22 of the Sanibel Code of Ordinances authorizes and empowers the Mayor to issue public proclamations declaring a State of Local Emergency; and, during a state of emergency, impose certain prohibitions and restrictions to protect lives, safety, and property; and

WHEREAS, the City Council Resolution No. 22-054 declared an initial State of Local Emergency for a 7-day term, which State of Local Emergency has been extended continuously by Mayoral Proclamations since the initial issuance; and

WHEREAS, an amendment relaxing the current curfew is appropriate, given improved conditions on island and the express authorization from City Council at its January 17, 2023 meeting; and

WHEREAS, relaxing Sanibel Code-based restrictions on the outdoor display of commercial merchandise is appropriate based upon significant damage to many retail structures and the express authorization from City Council at its January 17, 2023 meeting.

NOW, THEREFORE, BE IT PROCLAIMED by the Mayor of the City of Sanibel, Florida:

SECTION 1. Amending Curfew. The existing curfew hereby amended as follows from the existing curfew, with additions formatted with underlined text and deletions in ~~strike~~through text:

There shall be a general curfew throughout the City of Sanibel between the hours of 9:00 p.m. 12:00 a.m. and 6:00 a.m., during the City's current declared State of Local Emergency. The curfew during these hours includes the prohibition of any ingress or egress to and from the City of Sanibel—whether via the Sanibel Causeway or by watercraft, as well as the prohibition of pedestrian and vehicular movement within the city limits of the City of Sanibel, except for fire, police, city employees on duty, and other emergency services personnel explicitly authorized by the City of Sanibel. The only limited exception to this general curfew is for individuals completing a commute to or from the mainland outside of the curfew hours, so long as the individual has been issued a 2021 or a 2022 City of Sanibel Residential Hurricane Pass (reentry) and (a) has that reentry pass in their possession; and (b) also has in their possession a valid driver's license with the same name as is associated with the reentry pass. All vehicular traffic on island should expect routine checkpoints and traffic stops to ensure compliance with this restriction. The territory embraced by the curfew includes all territory within the legal boundaries of the City of Sanibel, Florida.

SECTION 2. Limited Authorization for Outdoor Display of Merchandise. The restrictions imposed by Sections 110-46(4) or 126-1022(a), Sanibel Code, prohibiting the outdoor display of merchandise for commercial purposes, is hereby waived for the duration of this Proclamation for any commercial business that possessed a valid Sanibel Business Tax Receipt (BTR) as of September 28, 2022, so long as that business continues to maintain a current Sanibel BTR. Further, multiple qualifying businesses may aggregate their outdoor displays in the location of another qualifying business (the "host business"), with express permission from the host business and necessary approvals, if any, from any applicable landlord or governing association of the host business.

SECTION 3. Penalties. Any person who violates Section 1 this Proclamation shall be guilty of a misdemeanor of the second degree and upon conviction for such offense, shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in jail, or both. Each non-compliance or violation, and each day thereof, shall constitute a separate offense.

Nothing contained herein shall prevent the City of Sanibel from taking such other lawful action in as is necessary to prevent or remedy any refusal to comply with, or violation of, this Proclamation or the emergency measures made effective according to this Proclamation. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

SECTION 4. Effective Date. This Proclamation shall be effective at 11:59 p.m. on January 17, 2023, and shall remain in effect through the duration of this State of Local Emergency, unless modified or terminated by written Proclamation of the Mayor or by Resolution of City Council.

AUTHENTICATION:



Holly D. Smith, Mayor



Scotty Lynn Kelly, City Clerk

11:21 a.m.

a.m. / p.m.

APPROVED AS TO FORM:



John D. Agnew, City Attorney

1/21/23

Date