

9. First Reading of an ordinance and scheduling of public hearing.

- c. **ORDINANCE 08-008 OF THE CITY OF SANIBEL  
ESTABLISHING THE CITY COMMUNITY PARK  
LOCATED AT 2221 PERIWINKLE WAY AS A  
TOBACCO FREE PUBLIC SPACE; PROVIDING FOR  
ENFORCEMENT AND PENALTIES FOR  
VIOLATIONS; PROVIDING FOR CONFLICT AND  
SEVERABILITY; PROVIDING FOR CODIFICATION;  
AND PROVIDING AN EFFECTIVE DATE**

**CITY OF SANIBEL**

**ORDINANCE NO. 08-008**

**AN ORDINANCE OF THE CITY OF SANIBEL ESTABLISHING THE CITY COMMUNITY PARK LOCATED AT 2221 PERIWINKLE WAY AS A TOBACCO FREE PUBLIC SPACE; PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the newly constructed City of Sanibel Community Park located at 2221 Periwinkle Way, will attract a myriad of people, including families with children, who travel from near and far to enjoy the park facilities, breathe the fresh air, play, relax and engage in healthy recreational activities; and

**WHEREAS**, second-hand tobacco smoke has been proven to be an identified health hazard to human beings; and

**WHEREAS**, litter which is caused by those who improperly dispose of cigar and cigarette butts or other tobacco products, including smokeless or chewing tobacco, within the Community Park is difficult to remove, can in some cases lead to severe burns to park patrons and ingestion hazards to wildlife, can significantly detract from a healthy environment, and reduce the enjoyment of the Community Park facility for those individuals and families who want to enjoy a healthy environment, free of smoking and tobacco related pollution and hazards; and

**WHEREAS**, the City taxpayers must fund the costs of cleanup resulting from cigarette and cigar butts and other tobacco related discarded waste; and

**WHEREAS**, the City Council wishes to promote and enhance a healthy environment at its Community Park for the safe enjoyment by all individuals, especially children, by prohibiting smoking and the use of tobacco products within the Community Park facility; and

**WHEREAS**, City Council finds that this Ordinance is necessary in order to protect the citizens and visitors who frequent the City of Sanibel Community Park;

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

**SECTION 1.**

- (a) The City Council hereby establishes and designates the City of Sanibel Community Park located at 2221 Periwinkle Way, as a tobacco free public space and the use and/or disposal of any and all tobacco products at such Community Park is hereby prohibited and is a violation of this Ordinance. The prohibition established herein shall be applicable at all times, without exception, and any Special Events Permit issued for any activity at the Community Park shall be subject to the prohibition set forth herein.

- (b) The City of Sanibel Community Park shall be designated as that generally recognizable and observable park area located at 2221 Periwinkle Way in the City of Sanibel and shall include and encompass, but not be limited to, all play fields and equipment, spectator stands, concession areas, restroom areas, walking or congregating areas, parking areas, gardens or landscaped areas, and all intervening spaces. This area, or portions of this area, may at times be fenced, but fencing shall not be a requirement for defining the park area.

**SECTION 2. Penalty and Enforcement.**

- (a) Any person who violates this Ordinance, for a first offense, is subject to a civil fine in the amount of \$50.00, plus any additional costs imposed by State or local law, including court costs that may be imposed as provided by law.
- (b) For a second violation or subsequent violations, this Ordinance shall provide for those penalties set forth in Section 1-15 of the City of Sanibel Code of Ordinances, and for all means of enforcement and alternative enforcement set forth in such section.

**SECTION 3. Codification.**

This ordinance shall be deemed an amendment to the Code of Ordinances of the City of Sanibel and the Sanibel Code of Ordinances is hereby amended.

**SECTION 4. Conflict.**

All ordinances and parts of ordinances in conflict herewith shall be and the same are 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 of application hereof.

**SECTION 6. Effective date.**

This ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this 1st day of April, 2008.

AUTHENTICATION:

\_\_\_\_\_  
Mick Denham, Mayor

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Pamela Smith, City Clerk

APPROVED AS TO FORM: Kenneth B. Cuyler 3/24/08  
Kenneth B. Cuyler, City Attorney Date

Publication and Hearing Dates:

Date of First Public Hearing: \_\_\_\_\_

Ordinance Publication Date: \_\_\_\_\_

Date of Second Public Hearing: \_\_\_\_\_

Vote of Council Members:

Denham \_\_\_\_\_

Johnston \_\_\_\_\_

Jennings \_\_\_\_\_

Pappas \_\_\_\_\_

Ruane \_\_\_\_\_

Date filed with the City Clerk: \_\_\_\_\_