

ORDINANCE 2012-04

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO LIVE WORK CONDITIONAL USE; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G”, CHAPTER 2 ENTITLED “DEFINITIONS;” AMENDING CHAPTER 14 ENTITLED “ZONING REGULATIONS,” BY AMENDING SECTION 14-58 ENTITLED “SPECIAL EXCEPTIONS AND CONDITIONAL USES” TO PERMIT LIVE WORK FACILITIES AS A CONDITIONAL USE ON CERTAIN PROPERTIES; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2, *Constitution of the State of Florida*, authorizes the City of Daytona Beach Shores to exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Section 163.3202, *Florida Statutes*, provides that the City of Daytona Beach Shores shall adopt and enforce land development regulations for the purpose of implementing its comprehensive plan and protecting the public health, safety, and general welfare; and

WHEREAS, unique uses and combination of uses that are not permitted by right or special exception may contribute to the economic vitality of businesses and the City of Daytona Beach Shores if conditionally permitted; and

WHEREAS, traditional live/work facilities are currently prohibited within the City limits of the City of Daytona Beach Shores; and

WHEREAS, the current economic state of the region dictates a multi-option set of development regulations to ensure the full economic capacity of the City of Daytona Beach Shores is realized; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds it is in the best interests and welfare of the citizens and businesses of the City to enact this ordinance permitting and regulating live work facilities in the City; and

WHEREAS, the City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, this Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City Daytona Beach Shores*; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA THAT:

SECTION ONE: Section 2-2, *Land Development Code*, Chapter 2, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “General Definitions,” is amended to read as follows:

Sec. 2-2. General Definitions

Live/Work facility: means a building that contains at least one floor devoted to allowed nonresidential uses and at least one floor devoted to allowed residential occupancy as permitted by this Code.

SECTION TWO: Section 14-58, *Land Development Code*, Chapter 14, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Special exceptions and Conditional Uses,” is amended to read as follows:

Sec. 14-58. Special exceptions and Conditional uses

Sec. 14-58.2.1 Conditional Uses Permitted.

The following uses are permitted as conditional uses subject to the provisions of this Code.

14-58.2.1.A. Outdoor Dining.

14-58.2.1.B. Live Work Facilities.

Any conditional use permit issued for Live/Work facilities shall be subject to the following criteria:

1. Administrative Approval
 - a. The City Manager, or designee, shall have the power and authority to notice, review and administratively approve all Live/Work conditional use applications.
 - b. Approvals shall be implemented by means of a development order.
 - c. Denials shall be implemented by a denial development order consistent with the provisions of Section 166.033, *Florida Statutes*, and other controlling law.

2. General Requirements
 - a. Only bona fide owners of the business associated with the Live/Work facility may occupy the living unit portion of the Live/Work facility.
 - b. No portion of a Live/Work facility may be separately rented or sold as a commercial space for a person or persons not living on the premises, or as a residential space for a person or persons not working on the premises.
 - c. All facilities proposing a Live/Work facility uses must be awarded a Business Tax Receipt and a Certificate of Use Permit by the City and must maintain such matters in current status.
 - d. Lots or parcels with an approved Live/Work facility shall not be combined with another lot or parcel containing or proposing an additional Live/Work facility.
 - e. The termination, closing or abandonment of the work or commercial portion of a Live/Work facility shall cause the immediate revocation of the Live/Work conditional use permit without any action being taken by the City.

3. Facility Requirements
 - a. Live/Work facilities shall only be located in singular buildings with two floors on an approved lot or parcel of land.
 - b. The Live/Work facility shall comply with the *Florida Building Code* and *National Fire Prevention Act* requirements applicable to the co-location of uses at the particular site.
 - c. Live/Work facilities may not be changed or converted to residential use greater than the approved work or commercial square footage.
 - d. Ground floors shall not be used for residential or living purposes.
 - e. Residential units shall have a minimum floor area of 800 square feet.
 - f. Commercial units shall have a minimum floor area of 800 square feet.

4. Location
 - a. Live/Work facilities may be located in any commercial zoning district.

5. Minimum Lot Size:
 - a. Lots or parcels containing buildings pre-dating the adoption of this chapter: five thousand (5,000) square feet.

- b. Newly constructed Live/Work structures shall meet the minimum lot size requirement for the applicable zoning district.
- 6. Minimum Lot width:
 - a. Lots or parcels containing buildings pre-dating the adoption of this chapter: fifty (50) feet.
 - b. Newly constructed Live/Work structures shall meet minimum lot width requirement for the applicable zoning district.
- 7. Permitted Commercial Uses
 - a. All commercial or work activities shall be limited to the permitted uses of the underlying zoning district in which the site is located.
- 8. Permitted Accessory Uses and Structures
 - a. Permitted accessory uses for the work or commercial component of a Live/Work facility shall be consistent with the underlying zoning district regulations.
 - b. Permitted accessory uses for the living or residential component of a Live/Work facility shall be conducted entirely indoor or in the rear of a property.
 - c. The construction or installation of swimming pools, tiki huts and other permanent residential accessory structures, except those permitted in yards as prescribed by Section 2-2 of this Code, is prohibited and unlawful.
- 9. Prohibited Live Work Use Combinations
 - a. Live/Work conditional use permits shall not be issued in combination with any entertainment, automotive service station, fuel sale establishment, body art, pain management clinic, internet café, veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale, or establishments associated with the sale of packaged beer, liquor or spirits.
 - b. Live/Work conditional use permits shall not be issued in combination with any special exception.
- 10. Parking
 - a. Unless otherwise determined by the City, off-street parking shall not be required for the residential component of Live/Work facilities.
- 11. Signage
 - a. Signage on or through the windows of the principal building shall be limited to twenty-five percent (25%) of the total window area and shall only be permitted on the work or commercial floor of the building.
 - b. Home based business signs are prohibited and unlawful.

12. Appearance Standards

- a. Each application for a Live/Work conditional use permit in a structure pre-dating the adoption of this ordinance shall be accompanied with a photographic rendering of the proposed appearance of the structure upon being converted to a Live/Work facility.
- b. Each application for a Live/Work conditional use permit in a structure pre-dating the adoption of this ordinance shall be accompanied with a proposed landscape plan for the property which plan, upon approval, shall be included as a condition in the development order approving the use.
- c. Each application for a Live/Work conditional use permit in a new structure subsequent to the adoption of this ordinance shall meet the following standards:
 - i. The principal structure shall be fully treated consistent with a uniformed theme or architectural style approved by the City, based upon sound and generally accepted land use planning practices and principles, when elevation is visible from public right-of-way or residential district. The burden of proof shall be on the applicant to meet this requirement.
 - ii. Accessory structures including, but not limited to, fences, walls, detached buildings and dumpster enclosures shall be consistent with the approved architectural treatment and style of the principal building so as to create a uniform architectural style and appearance as determined by the City, based upon sound and generally accepted land use planning practices and principles. The burden of proof shall be on the applicant to meet this requirement.
 - iii. Accessory structures noted above and fronting the public right-of-way or a residential district shall be fully treated.

13. Lighting

- a. Neon lighting on buildings and structures are prohibited and unlawful.
- b. All lighting shall conform to the Volusia County Sea Turtle Lighting Standards.
- c. Glare and direct lighting shall not project into the right-of-way or into any residential district.

14. Outdoor activities

- a. Unless otherwise authorized by this code and permitted by the City, all work activities and storage shall take place in fully enclosed areas.

15. Variances

- a. Variances from the requirements of this Ordinance are prohibited and applications for such approval shall not be accepted by the City.

SECTION THREE: ENFORCEMENT AND PENALTIES.

(a). It is prohibited and unlawful for any person to fail to comply with the requirements of this Ordinance.

(b). The City may enforce the provisions of this Ordinance by any lawful means available to the City under the controlling provisions of State law.

(c). The penalties for violation of this Ordinance shall be as set forth in the code enforcement method asserted by the City under the *Code of Ordinances of the City of Daytona Beach Shores, Florida* or as may be available under the controlling provisions of State law.

SECTION FOUR: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to the regulation of residential and commercial land uses are hereby ratified and affirmed.

SECTION FIVE: CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections Three, Four, Five, Six, Seven and Eight shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION SIX: CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION SEVEN: 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 portions thereof.

SECTION EIGHT: EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

HARRY JENNINGS, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

LONNIE GROOT, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2012.

Adopted on second reading this _____ day of _____, 2012.