

ORDINANCE 2012-05

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AMENDING THE MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE; AMENDING APPENDIX "G", CHAPTER 14 ENTITLED "ZONING REGULATIONS;" BY AMENDING SECTION 14-58 ENTITLED "SPECIAL EXCEPTIONS PERMITTED IN ALL DISTRICTS" TO CREATE SPECIAL EXCEPTION DEVELOPMENT REQUIREMENTS FOR AUTOMOTIVE SERVICE STATIONS IN THE GC-RD DISTRICT; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY PROVIDING FOR CODIFICATION; 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, automotive service stations provide a critical service to local communities; and

WHEREAS, automotive service stations, if developed in accordance with sound planning and architectural principles, may contribute to the economic and aesthetic wellbeing of a community; and

WHEREAS, automotive service stations are only permitted in the GC-RD District by special exception; and

WHEREAS, the special exception automotive service stations development regulations are yet to be established; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds it is in the best interest and welfare of the citizens of the City to enact this ordinance; 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 14-58, *Land Development Code*, Chapter 14, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Special Exceptions Permitted in all Districts,” is amended to read as follows:

Sec. 14-58. Special Exceptions Permitted in all Districts

D. Pain management clinics. In order to provide adequate protection to the community and establish and maintain the bona fide public purpose of each pain management clinic as a legitimate medical facility, pain management clinics as defined in section 2-2 of this Code, shall be allowed only upon a development order being approved granting a special exception in the GC-1, GC-2 and GC-RD zoning districts subject to the following:

1. A certificate of use, in accordance with section 14-61.1 of this Code, shall be obtained prior to the establishment of any pain management clinic.
2. A pain management clinic shall be limited to the hours of operation between 7:00 a.m. and 7:00 p.m., Monday through Saturday.
3. No pain management clinic shall be permitted to be located within one thousand five hundred (1,500) feet of another pain management clinic, measured from the nearest point of subject property lines in a straight line. Such use shall not be located within the same plaza or center regardless of separation distances. This separation requirement applies regardless of what land use or jurisdiction a pain management clinic is located.
4. The proposed site shall be at least one thousand five hundred (1,500) feet from the nearest house of worship, school, child care center and public park. The beach area adjacent to the Atlantic Ocean shall not be considered a public park for the purposes of these regulations. This separation requirement applies regardless of what land use or jurisdiction a house of worship, school, child care center or public park is located.
5. Notwithstanding section 14-60.2 and section 14-60.3 of this Code, it is prohibited and unlawful for a pain management clinic to have any outdoor seating areas, queues, or customer waiting areas. All activities of each pain management clinic including, but not limited to, sales, displays, preparation and storage, shall be conducted entirely within a completely enclosed building.
6. The proposed site shall front an arterial roadway as designated in the Daytona Beach Shores Comprehensive Plan.

7. Parking shall be paved and comply with the provisions of section 14-46 and section 14-48 of this Code.

8. The special exception may be approved for a limited period of time and such condition of use shall be incorporated into the development order relating to the approval.

9. Pursuant to the authority of section 2-2 of this Code, due public notice shall be provided by the applicant.

10. Pursuant to its authority derived from this Code, the Planning and Zoning Board is hereby assigned the duties as to the granting of special exemptions under this section and its recommendations shall be heard and in the course of final action on the application by the City Council.

E. Automotive Service Stations. In order to provide for the sound development of automotive service stations, as defined in Section 2-2 of this Code, such land use may be permitted only upon a development order being approved granting a special exception in the GC-RD zoning district subject to the following development standards:

1. Location

- a. Automotive service stations shall only be permitted on properties with SR A1A frontage.
- b. New automotive service stations shall not be permitted within one thousand (1,000) feet of an existing or permitted automotive service station site.

2. Property dimensions and size

- a. Property shall have a minimum of one hundred and twenty-five (125) feet of frontage along SR.A1A.
- b. Minimum area of property shall be twenty thousand (20,000) square feet.

3. Orientation

- a. Service Bays and bullpens (temporary vehicle storage or parking not subject to the City's parking requirements) shall not be oriented towards residential districts. This requirement may be deviated from by the City Council if a finding of public necessity is made by the City Council and a finding of fact that the orientation of service bays and bullpen will not jeopardize public health, safety or welfare or adversely affect abutting land uses. The burden of proof shall be on the applicant to meet this requirement.
- b. Primary building entry shall front SR A1A.
- c. Primary vehicular entrance shall be from SR A1A.

4. Aesthetics

- a. The principal structure shall be fully treated consistent with a uniformed theme or architectural style approved by the City Council, 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.
- b. Accessory structures including, but not limited to, fences, walls, detached buildings, dumpster enclosures, bullpen, storage facilities and gas pump canopies 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 Council, based upon sound and generally accepted land use planning practices and principles. burden of proof shall be on the applicant to meet this requirement.
 - c. Accessory structures noted above and fronting the public right-of-way or a residential district shall be fully treated.
 - d. All buildings and gas pump canopies shall be treated with a barrel tile, metal or other appropriate roof treatment consistent with the prevailing architectural style of the principal building.
5. Construction type
- a. Prefabricated or metal walls on buildings shall not be used.
6. Accessory Structures
- a. Bullpens (vehicle repair temporary storage) shall not be visible from the public right-of-way.
7. Outdoor Vehicular Self-Service equipment
- a. Outdoor vehicle self-service equipment such as air pumps, vacuums, etc, but excluding gas pump islands, may be located within side yard setbacks that do not abut a residential district.
8. 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.
 - b. Signage located inside service and storage areas shall not be visible from the right-of way.
 - c. Signage on gas pumps shall not exceed fifty percent (50%) of gas pump area on either side of a gas pump.
 - d. Signage, for the purposes of instructions and cost of operation, on all other outdoor accessory self-service equipment shall be limited to one (1) square foot.
 - e. Banners shall be permitted pursuant to Chapter 6 of this Code.
9. Outdoor Displays
- a. Outdoor displays are prohibited. All lube, tires and other retail merchandise shall be stored and sold entirely inside the principal structure.
10. Permitted Accessory Uses
- a. Convenience store.

- b. Carwash, provided that carwash facilities shall not be located in any rear or side yard abutting a residential district.
- c. All other uses permitted under the term "automotive service station" contained in Section 2-2 of this Code, providing that all service areas and equipment shall be contained within service bays.

11. Hours of operation

- a. Carwash and other accessory services, including repair, and other facilities shall be limited to the hours of 6:00am to 9:00pm.

12. Fuel Storage Tanks

- a. Fuel storage tanks shall be underground.

13. Lighting

- a. Neon lighting on buildings and structures are prohibited.
- 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. Service Station Regulations

- a. All service stations shall comply with the requirements contained in Section 14-55 of this Code.

SECTION TWO: 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 THREE: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to the regulation of automotive service stations and related matters are hereby ratified and affirmed.

SECTION FOUR: 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 Two, Three, Four, Five, Six and Seven shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

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

SECTION SIX: 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 SEVEN: 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.