

ORDINANCE 2012-08

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, 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 INTERIOR STORAGE AS A SPECIAL EXCEPTION IN THE CITY’S COMMERCIAL DISTRICTS; 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, interior storage facilities provide an important service to local communities; and

WHEREAS, interior storage facilities, if developed in accordance with sound planning, land use and architectural principles, may contribute to the economic and aesthetic wellbeing of a community; and

WHEREAS, interior storage facilities are only permitted in the GC-1 and GC-2 Districts by special exception; 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 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:

Section 2-2. General Definitions.

Interior storage facility: A facility providing climate control personal storage space for rental or lease by individuals or businesses located within a completely enclosed building which space shall not be used for commercial business operations and which space is not used for the storage of any hazardous or industrial items. It is prohibited and unlawful to use storage space within an interior storage facility for commercial activities, the storage of hazardous or industrial items, or any other use not solely storage in nature including, but not limited to, temporary or permanent living and/or habitation.

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. 14-58.1. Special exceptions ~~permitted in all districts.~~

Sec. 14-58.1.1

(a) In general. A special exception is a use that would not generally be appropriate without restriction, but which, if controlled as to number, area, location or relation to the surrounding area, would promote the public health, safety and general welfare. Such use may be permitted in a zoning district as a special exception only if identified as such in this Code.

(b) Application procedure. Written application shall be made to the City for a special exception in accordance with this Code with the burden of proof and persuasion being upon the applicant at all times. In addition, the applicant shall provide, at a minimum, the following information:

(1) A conceptual site plan showing buildings, parking and access locations, utility service points, proposed screening or buffering, supplemental details necessary to address the review criteria and satisfy any specific requirements for such use described in this Chapter, and any other information pertinent to the specific requested use of the site.

(2) A written statement specifically addressing the general requirements of this Section and this Code as well as consistency with the City's Comprehensive Plan.

(c) Notice and hearing procedures. The procedures for notice, review and approval of special exception requests shall be as follows:

(1) Notice. Notice shall be pursuant to the due public notice requirements contained in Section 2-2 of this Code.

(2) Hearing.

(a) Planning and Zoning Board action. The Planning and Zoning Board shall hold a public hearing to consider and make a recommendation to the City Council on a special exception application. The recommendation of the Planning and Zoning Board shall be forwarded to the City Council for consideration.

(b) City Council action. The City Council shall consider the recommendation of the Planning and Zoning Board and any additional evidence presented before taking final action on a proposed special exception. However, if the Planning and Zoning Board fails to make a recommendation within sixty (60) days of commencing consideration of a special exception, the City Council may take action on the special exception based upon an assumed recommendation of approval from the Planning and Zoning Board.

(d) Special requirements and conditions.

(1) Conditions and safeguards. In granting any special exception, the Planning and Zoning Board may recommend, and the City Council may prescribe, appropriate conditions and safeguards to ensure compliance with the requirements of this section and the code in general. Such conditions may include time limits for the initiation of the special exception use, specific minimum or maximum limits to normative Code requirements, or any other conditions reasonably related to the requirements and criteria of this Chapter.

(2) Review criteria. When reviewing an application for a special exception, the Planning and Zoning Board and City Council shall consider the following requirements and criteria:

(a) Traffic generation and access for the proposed use shall not adversely impact adjoining properties and the general public safety;

(b) Off-street parking, loading and service areas shall be provided and located such that there is no adverse impact on adjoining properties, beyond that which generally experienced in the district with regard to normative development activity;

(c) Required yards, screening or buffering and landscaping shall be consistent with the district in general and the specific needs of the abutting land uses as determined by the City;

(d) Architectural and signage treatments shall comply with the general provisions applicable to permitted uses in the district, to the greatest extent practicable, and mitigate impacts to surrounding development; and

(e) Size, location or number of special exception uses in an area shall be limited so as to maintain the overall character of the district as generally intended by this Code.

(3) Notwithstanding the review criteria established within this Section, all special exceptions shall also be reviewed pursuant to the criteria established in Section 14-69.1(1) through (4) of this Code.

(4) *Transfer or abandonment of special exceptions.* Special exceptions shall run with the property and the ownership of a special exception use may be transferred to another party. A special exception use that is not initiated within two (2) years of being granted shall not be established without a new public hearing in accordance with requirements of this Section and shall be deemed abandoned. A special exception use that is abandoned, after establishment, for a period of six (6) months or more shall not be reestablished without a new public hearing in accordance with requirements of this Section.

(5) *Distance between special exception uses.* Unless the method for measurement is specifically described herein, the distance between specific uses shall be measured by a straight line drawn from the nearest point of each lot, parcel or site to each other and such measurement shall be irrespective of jurisdictional boundaries.

(6) *Special locational criteria.* Where the proposed site for a special exception use is required to be located on or front an arterial or major collector roadway, said requirement is intended to ensure that traffic impacts associated with the use are directed toward the major collector or arterial roadway. Accordingly, this frontage requirement may be met by sites without direct frontage on the major collector or arterial, provided that the site location is in close proximity to the designated roadway, and the traffic impacts associated with the proposed use will be directed through areas of higher intensity development to reach the designated roadway.

(7) *Violation of special exception terms or conditions.* It is a violation of this Code for any person to violate or to refuse or fail to comply with any term or condition of a special exception. Violations may be prosecuted or enforced in any manner as may be provided by law for prosecution or enforcement of municipal ordinances.

(8) Denial. The Planning and Zoning Board may recommend denial of any application for any special exception, and the City Council may deny any application for special exception, for any of the following reasons or a combination thereof:

- (a) Inconsistency with the findings and intent of this Section.
- (b) Inconsistency with any goal, objective or policy of the Comprehensive Plan.
- (c) Adverse affect upon the public interest.
- (d) Failure to meet the requirements of the applicable special exception regulations.
- (e) Failure to meet all requirements imposed by Federal, State, other local government or City Council, law, rule, regulation, ordinance or policy.
- (f) Creation of a hazard, a public nuisance or a circumstance dangerous to individuals or the public.
- (g) Incompatibility with the predominant use or character of the surrounding property.
- (h) The use will materially alter, disrupt or decrease the character or value of the area within which the use is proposed or abutting neighborhoods.
- (i) The use will adversely affect the natural environment, natural resources or scenic beauty, or cause excessive pollution.

(9) Expiration or abandonment of special exception purpose. If a special exception does not begin to serve the purpose for which it was granted permission within two (2) years from the date of approval of the special exception it shall expire and be deemed, conclusively, to have been abandoned. The submittal of a site development plan will constitute meeting the requirements of this provision. If after receiving approval the site development plan expires, the special exception will also expire and a new application must be submitted and approved in accordance with this Section.

Sec. 14-58.1.2. Special exceptions permitted in all districts.

C. The following uses are permitted as special exceptions in the GC-1, GC-2 and GC-RD zoning districts as follows:

1.***

~~D.~~ 2.

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:

† a. 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~~b. 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~~ c. 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~~ d. 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~~ e. Regardless of any other provision ~~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~~ f. The proposed site shall front an arterial roadway as designated in the Daytona Beach Shores Comprehensive Plan.

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

~~8~~h. 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~~i. Pursuant to the authority of section 2-2 of this Code, due public notice shall be provided by the applicant.

~~10~~j. 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~~ D. The following uses are permitted as special exceptions in the GC-RD zoning districts as follows:

1. 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:

2. Interior Storage. In order to provide adequate interior storage facility options to the community while maintaining community values and safety, an interior storage facility as defined in Section 2-2 of this Code, shall be allowed in the GC-RD zoning district only upon a development order being approved granting a special exception subject to the following as well as all other provisions of this Code relating thereto:

a. Property Dimension and Size:

1. The property shall have a minimum of one hundred and twenty-five (125) feet of frontage along SR.A1A.
2. The minimum area of property shall be twenty thousand (20,000) square feet.
3. An interior storage facility shall have a minimum of five thousand (5,000) square feet of gross floor area.

b. Property Location:

1. The proposed site for an interior storage facility shall front an arterial roadway as designated in the Daytona Beach Shores Comprehensive Plan.
2. Interior storage facilities shall not be located within two thousand five hundred (2,500) feet of another interior storage facility, measured from the nearest point of subject property lines in a straight line. This separation requirement applies regardless of what land use or jurisdiction an interior storage facility is located.

c. Hours of Operation: An interior storage facility shall be limited to the hours of operation between 6:00 a.m. and 9:00 p.m. unless otherwise provided in the development order approving the special exception

d. Regardless of any other provision of this Code, it is prohibited and unlawful for an interior storage facility to have any outdoor seating areas and ancillary or accessory structures outside and detached from the principal storage facility building. All permitted interior storage shall be conducted entirely within a completely enclosed area.

e. It is prohibited and unlawful for an interior storage facility to have any docking, delivery or drop-off facilities visible from any public right-of-way.

f. Parking and other vehicular use areas shall be paved and comply with all provisions of this Code.

g. All newly constructed interior storage facilities shall conform to the following:

1. Minimum green area shall be ten (10%) percent of lot size.
2. Landscaping and buffering shall be provided in accordance with the requirements of this Code.
3. 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 and land use practices and principles, when elevation

shall be on the applicant to meet this requirement.

4. Accessory structures including, but not limited to, fences, walls, 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 Council, 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.

h. Lighting:

1. Neon lighting on buildings and structures is prohibited and unlawful.
2. All lighting shall conform to the Volusia County Sea Turtle Lighting Standards and it is prohibited and unlawful for failure to meet said Standards.
3. It is prohibited and unlawful to project glare or direct lighting into the right-of-way or into any residential district.

i. Construction type:

1. Prefabricated or metal walls on buildings shall not be used.

j. Signage:

1. Signage on or through the windows of the principal building shall be limited to twenty-five percent (25%) of the total window area.

k. Operations:

1. It is prohibited and unlawful to use storage space within an interior storage facility for commercial business operations including, but not limited to, sales, showrooms and manufacturing.
2. It is prohibited and unlawful to use storage space within an interior storage facility for the storage of hazardous materials including, but not limited to, chemicals, flammables, gases.
3. It is prohibited and unlawful to use storage space within an interior storage facility to store fueled equipment, including but not limited to motorcycles, mopeds, lawn-care equipment and portable cooking equipment without compliance with applicable Fire and Building Codes.
4. It is prohibited and unlawful to use storage space within an interior storage facility for any other use not solely storage in nature including, but not limited to, temporary or permanent living and/or habitation, or, residential use of any kind.
5. It is prohibited and unlawful to provide storage space within an interior storage facility equipped with or having access to electrical outlets or plug-in energy sources.
6. It is prohibited and unlawful to use the interior or exterior premises of an interior storage facility for any type of trade, construction, work or manufacturing of any kind.
7. Both the property owner and the owner of the interior storage facility business shall be responsible to ensure that the facility operates and complies at all times with the terms of this Ordinance.

l. 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.

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

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 interior storage and related matters 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.