

ORDINANCE 2013-03

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AMENDING THE MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE; REPEALING SECTION 2-4 OF CHAPTER 2 AND APPENDIX "G", ENTITLED "SEWER AND SEWAGE DISPOSAL DEFINITIONS," WITH RESPECT TO BEING AND AS INCONSISTENT WITH SECTION 74-101 OF THE CITY OF PORT ORANGE, FLORIDA, CODE OF ORDINANCES, ENTITLED "DEFINITIONS;" REVISING, IN ITS ENTIRETY CHAPTER 12 ENTITLED "UTILITIES," BY REPEALING AND RE-ADOPTING SECTION 12-4 ENTITLED "SEWERS AND SEWAGE DISPOSAL" TO INCORPORATE THE PROVISIONS OF THE CITY OF PORT ORANGE, FLORIDA, CODE OF ORDINANCES AND THE INDUSTRIAL PRETREATMENT PROVISIONS OF THE FEDERAL CLEAN WATER ACT THEREBY PROVIDING NECESSARY UPDATES AND REVISIONS; 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, the City of Daytona Beach Shores is required to amend its Industrial Pretreatment Provisions pursuant to the Fourth Addendum to the Wholesale Service Agreement for wastewater between the City of Daytona Beach Shores and the City of Port Orange; and

WHEREAS, the regulations and prohibitions set forth below are necessary to protect the health and welfare of the Daytona Beach Shores and Port Orange citizenry and employees; and

WHEREAS, the enforcement of the provisions set forth below will ensure that the Daytona Beach Shores and Port Orange wastewater facilities remain in good working order.

WHEREAS, the City Council of the City of Daytona Beach Shores finds it is in the best interest and welfare of the citizens; 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

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

SECTION ONE: Section 2-4; Chapter 2, Appendix “G;” *Land Development Code; Code of Ordinances of the City of Daytona Beach Shores*, entitled “Sewer and sewage disposal definitions,” is repealed with respect to all definitions that are set forth in the Section as being inconsistent in any way with the definitions set forth in Section 74-101 of the *City of Port Orange, Florida, Code Of Ordinances* , entitled “Definitions” which definitions are hereby adopted by reference as if fully set forth herein verbatim and shall be enforced within the City of Daytona Beach Shores. The Code codifier is directed, authorized and instructed to make any and all necessary revisions to the *Code of Ordinances of the City of Daytona Beach Shores* to implement this direction.

SECTION TWO: Subsections 12-4.50 through 12-4.59 and Subsections 12-4.62 and 12-4.63, of the Section entitled “Sewers and sewage disposal;” Chapter 12, entitled “Utilities;” Appendix “G;” *Land Development Code; Code of Ordinances of the City of Daytona Beach Shores*, is hereby repealed and recreated and re-adopted to read as follows:

Sec. 12-4. - Sewers and sewage disposal.

(a). The provisions of Part II; Chapter 74, entitled Utilities; Article III, Entitled “Sewer System And Sewage Disposal”; Division 2, entitled “Industrial Pretreatment Program;” of the *City of Port Orange, Florida, Code Of Ordinances*; are hereby adopted by reference as if fully set forth herein verbatim and shall be enforced within the City of Daytona Beach Shores; provided, however, that, the City of Daytona Beach Shores shall be the enforcement agency within the City Limits of the City of Daytona Beach Shores and the City of Daytona Beach Shores shall also be directed by the Rules of the City Manager as provided for in Subsection (b).

(b). The City Manager is hereby authorized and directed to implement the provisions of this Ordinance by means of the adoption of administrative rules as may be deemed necessary and appropriate.

(c). Nothing herein shall preclude, eliminate or waive the City of Port Orange’s rights established pursuant to the Daytona Beach Shores – City of Port Orange Fifth Addendum to the Wholesale Service Agreement, Section 6, entitled “Maintenance of Adequate Service.”

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 industrial wastewater pretreatment 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 _____, 2013.

Adopted on second reading this _____ day of _____, 2013.