

RESOLUTION NO. 2013-06

A RESOLUTION OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA WHICH IS ADOPTED AS A DEVELOPMENT ORDER UPON AN APPLICATION TO AMEND THE DAYTONA BEACH SHORES OFFICIAL COLOR PALETTE BY ADDING NEW COLORS, “HUMBLE GOLD” AND “CEREMONIAL GOLD,” TO THE PALETTE PURSUANT TO SECTION 8-11.3 OF THE DAYTONA BEACH SHORES *LAND DEVELOPMENT CODE*; ACTING UPON AN APPEAL FROM THE CITY'S BEAUTIFICATION ADVISORY BOARD; PROVIDING FOR FINDINGS; PROVIDING A SAVING PROVISION; PROVIDING FOR CONFLICTS; 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, the City of Daytona Beach Shores, on March 22, 2006 adopted Ordinance Number 2006-4 which established Mandatory Exterior Color Standards, including an application process and an Official Color Palette (OCP) for the City of Daytona Beach Shores, an appeal process and a manner in which to add a color to the OCP; and

WHEREAS, Ordinance Number 2006-4 is codified in Part II, *Code Of Ordinances of the City of Daytona Beach Shores*, Appendix “G,” *Land Development Code*, Chapter 8 (Environmental Impact, Architectural Guidelines, Mandatory Exterior Color Standards And Town Center Development, Article II, Mandatory Exterior Color Standards); and

WHEREAS, on February 18, 2013 the real property owner of 3811 S. Atlantic Avenue, Palmas De Mallorca Condominium Owner's Association, Inc., submitted a completed paint permit application number DBS20130169 to the City; and

WHEREAS, on February 18, 2013 the City of Daytona Beach Shores took action to deny paint permit application DBS20130169 due upon consideration of the provisions of Sections 8-8.1(e), 8-9 and 8-10.2 of the City's *Land Development Code*;

WHEREAS, on February 18, 2013 the real property owner of 3811 S. Atlantic Avenue, Palmas De Mallorca Condominium Owner's Association, Inc., submitted a completed paint permit appeal application DBS20130170 to the City (the “subject application”); and

WHEREAS, on February 21, 2013 the City's Beautification Advisory Board, pursuant to Section 8-11.3(5) of the City's *Land Development Code*, provided a recommendation to the City Council regarding the subject application; and

WHEREAS, on March 26, 2013 the City Council of the City of Daytona Beach Shores, held a public hearing to consider the subject application; and

WHEREAS, Section 8-11.3 of the City's *Land Development Code* requires a resolution to amend the OCP subsequent to a successful appeal application which introduces a new color not found on the OCP; and

WHEREAS, the action taken in this Resolution constitutes final action of the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AS FOLLOWS:

SECTION ONE: FINDINGS.

(a). The City staff report and City Council agenda memorandum relating to this matter are hereby adopted as if fully set forth herein.

(b). The City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Resolution.

(c). The foregoing recitals (whereas clauses) are hereby adopted as the findings of the City Council of the City of Daytona Beach Shores and incorporated into this Resolution as if set forth *in haec verba*. Likewise, the findings made at the City Council hearing on this matter are adopted as findings and are incorporated into this Resolution as if set forth *in haec verba*.

SECTION TWO. ACTION OF CITY COUNCIL RELATING TO PAINT PERMIT APPEAL APPLICATION NUMBER DBS20130170.

OPTION 1:

The City Council hereby amends the OCP by adding "*Humble Gold*" and "*Ceremonial Gold*" (Exhibit A) to the OCP as base colors and the subject application is approved and this Resolution shall constitute an approval development order.

OR

OPTION 2:

The City Council hereby amends the OCP by adding "*Humble Gold*" and "*Ceremonial Gold*" (Exhibit A) to the OCP as a base color for buildings with Mediterranean architecture only and, to the extent that the subject application has requested broader approval, this action constitutes a denial development order under the provisions of Section 166.033, *Florida Statutes*, based upon the findings set forth herein.

OR

OPTION 3:

The City Council hereby amends the OCP by adding “*Humble Gold*” and “*Ceremonial Gold*” (Exhibit A) to the OCP as a base color-for buildings with Mediterranean architecture in the T or RMF-1 zoning districts only and, to the extent that the subject application has requested broader approval, this action constitutes a denial development order under the provisions of Section 166.033, *Florida Statutes*, based upon the findings set forth herein.

OR

OPTION 4:

The City Council hereby denies the proposed addition to the City's OCP by adding “*Humble Gold*” and “*Ceremonial Gold*” (Exhibit A) to the OCP as a base color for buildings and this action constitutes a denial development order under the provisions of Section 166.033, *Florida Statutes*. The findings of the City Council as expressed at the meeting at which this Resolution was adopted are adopted as the basis for denial. The subject application is denied and the recommendation of the Beautification Advisory Board is sustained and affirmed.

SECTION THREE. SAVINGS. The prior actions of the City of Daytona Beach Shores relating to the regulation of colors and the City’s OCP are hereby ratified and affirmed.

SECTION FOUR: CONFLICTS. All resolutions or parts thereof in conflict with this Resolution are hereby repealed to the extent of such conflict.

SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, 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 SIX. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

CITY OF DAYTONA BEACH SHORES, FLORIDA

By: _____
Mayor, Harry Jennings

ATTEST:

By: _____
Michael T. Booker, City Manager

Cheri Schwab, City Clerk

APPROVED AS TO FORM AND LEGALITY:

By: _____
Lonnie Groot, City Attorney

Passed and adopted on first reading this _____ day of _____, 2013.

Posted this _____ day of _____, 2013.

EXHIBIT A