

ORDINANCE 2014-12

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AMENDING THE MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE; AMENDING APPENDIX "G", CHAPTER 6 ENTITLED "SIGNS AND ADVERTISING;" BY AMENDING SECTION 6-9 ENTITLED "DISTRICT REGULATIONS;" AMENDING CHAPTER 8 ENTITLED "ENVIRONMENTAL IMPACT, ARCHITECTURAL GUIDELINES, MANDATORY EXTERIOR COLOR STANDARDS AND TOWN CENTER DEVELOPMENT," BY AMENDING ARTICLE III ENTITLED "TOWN CENTER DEVELOPMENT;" AMENDING CHAPTER 14 ENTITLED "ZONING REGULATIONS," BY AMENDING SECTION 14-15 ENTITLED "ESTABLISHMENT OF ZONING DISTRICTS," BY AMENDING SECTION 14-31.1 ENTITLED "GC-RD GENERAL COMMERCIAL REDEVELOPMENT DISTRICT," BY AMENDING SECTION 14-32 ENTITLED "TC-MUPUDE (TOWN CENTER MIXED USE PLANNED UNIT DEVELOPMENT EAST)," BY AMENDING SECTION 14-32.1 ENTITLED "TC-MUPUDW (TOWN CENTER MIXED USE PLANNED UNIT DEVELOPMENT WEST)," BY AMENDING SECTION 14-48.11 ENTITLED "OFF-STREET PARKING IN REDEVELOPMENT DISTRICTS;" 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 Council of the City of Daytona Beach Shores adopted Ordinance 2013-05 terminating all community redevelopment activities and the Community Redevelopment Agency; and

WHEREAS, this ordinance is of a housecleaning and administrative nature streamlining required standards and eliminating obsolete standards; and

WHEREAS, there is now no need to have separate sign standards for commercial zoning districts different within the City; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds that this Ordinance is in the best interest of its citizens and the future growth and development of 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. The City Council of the City of Daytona Beach Shores hereby amends the *Land Development Code*, Section 6-9, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “District Regulations,” as follows:

Sec. 6-9. - District regulations.

No sign shall be allowed except as provided in this chapter. It is prohibited and unlawful to erect or maintain a sign in violation of the provisions of this Ordinance.

~~Condition A. Sign will be allowed on upon issuance of a building permit and removed prior to final certificate of completion/occupancy.~~

~~Condition B. Sign will be allowed when city council approves a final development plan. Sign shall be removed at the issuance of a building permit or three hundred sixty-five (365) days from issuance.~~

~~Condition C. Sign shall not be located off site and shall only contain the words "exit" and/or "entrance".~~

~~Condition A D. Sign will be allowed on issuance of a building permit and removed prior to final certificate of completion/occupancy. However a real estate sign for sale or lease shall be placed on the existing permanent sign for the development, business or parcel, providing it is placed within the advertising part of an approved freestanding sign in a like manner, to be approved by the Building Official, but shall be limited to four (4) square feet in area.~~

~~Condition B E. No Sign, letters, material, fabric or paper shall cover over fifteen (15) percent of any window in any building. Percentage shall be calculated by an imaginary box at the outer edge of writing.~~

~~Condition F. Sign will be allowed on issuance of a building permit and removed prior to final certificate of completion/occupancy.~~

~~Condition G. Vehicular signs or any vehicle with a sign or signs attached thereto or placed thereon are subject to the following conditions: The vehicle shall be parked within the confines of a building OR the vehicle shall be parked in an area designated on an approved site plan for the storage of commercial vehicles owned by the business operated at the site; the designated area shall not be located in the front or side yard setback; and in no case shall signage on a vehicle be used as a means of providing additional signage otherwise permitted by this Code, cause visual blight or a safety hazard. In addition, the vehicle shall be properly licensed, and maintained in an operable condition.~~

~~Condition H. Only one (1) sign per lot, per candidate. Sign shall only be permitted for sixty (60) days prior to an election/referendum.~~

~~Condition I. A sign with removable letters shall be allowed as an accessory structure to a movie theater.~~

~~Condition K. Shopping center signs shall be monument signs.~~

~~Condition L. Two (2) flags. One (1) American flag and one (1) State of Florida flag shall be allowed with or without a pole not higher than fifteen (15) feet and not placed in the front yard setback. Flags, banners and festoons are allowed for a thirty day period during special events pursuant to chapter 16³/₄ of the city's Code of Ordinances or during promotional events pursuant to subsection 6-8(18) of the city's Land Development Code. Flags, banners and festoons shall be approved by the city council sixty (60) days prior to the event.~~

Sec. 6-11. Prohibited signs.

1. No persons shall erect a sign on or over any public property or public right-of-way, including the Atlantic Ocean Beach except for legal franchises of the city and subsection 6-8(11.1), Public Information Off-Site Directional Signs.
2. No persons shall operate or park any vehicle for the purpose of display, sale or advertising on any public right-of-way.
3. Roof signs, except as expressly permitted by section 6-8, Permitted Signs, within Chapter 6, Signs and Advertising, of the Land Development Code of Ordinances, snipe signs, ~~banners~~, pennants, inflatables and wind operated devices, sandwich signs, revolving signs, flashing signs and signs with moving or alternating lights, outdoor advertising signs, off-site signs, animated signs, and spectacular signs are prohibited and unlawful. However, nothing contained herein shall prohibit a time and temperature sign with dimensions not exceeding twenty-five (25) square feet in area.

SECTION TWO. The City Council of the City of Daytona Beach Shores hereby amends the *Land Development Code*, Chapter 8, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Environmental Impact, Architectural Guidelines, Mandatory Exterior Color Standards and Town Center Development,” as follows:

CHAPTER 8. ENVIRONMENTAL IMPACT, ARCHITECTURAL GUIDELINES, MANDATORY EXTERIOR COLOR STANDARDS AND TOWN CENTER MIXED USE PLANNED UNIT DEVELOPMENT

8.1 – 8-13

Sec. 8-14.1. Purpose and intent.

To ensure quality redevelopment ~~and to maintain~~ and enhance an attractive physical environment consistent with the Town Center Master Plan and Pattern Book and recognized architectural styles within the mixed use planned unit development zoning districts Daytona Beach Shores Town Center area, as depicted in the City's Comprehensive Plan. Pertinent to an attractive physical environment for the public is the design of each site's use of colors and materials, signage, building orientation, architectural style and compatibility with surrounding structures and the Town Center Master Plan and Pattern Book as prepared for the City of Daytona Beach Shores by Charlan-Brook & Associates which document is adopted herein as if fully set forth herein verbatim a copy of which shall be maintained in the office of the City Clerk together with this Ordinance and the codification of this Ordinance.

This article is intended to promote imagination, innovation and variety consistent with the Daytona Beach Shores Town Center Master Plan and Pattern Book by focusing on design principles and encouraging creative solutions which serve the following purposes:

- (a) Create a sense of permanence and place by promoting development which emulates enduring character through use of quality design and building materials;
- (b) Promote variety and diversity in architectural design;
- (c) Carefully balance the natural environment with manmade systems which preserve, protect and conserve the natural environment;
- (d) Sustain the comfort, health, tranquility and contentment of residents and attract new residents and investment by reason of a desirable urban environment;
- (e) Minimize incompatible surroundings and visual blight which prevent orderly community development and reduce community property values;
- (f) Encourage and promote development which features amenities and excellence in the form of variations of siting, types of structures and adaption to and conservation of native vegetation and other environmental design features;
- (g) Foster civic pride and community spirit by maximizing the positive impact of development;
- (h) Inspire creative approaches to the use of land and related physical development;
- (i) Encourage the realization and conservation of a desirable and aesthetic urban environment through simple, cost-effective and quality design elements; and
- (j) Foster the development of a positive visual character for the ~~Town Center~~ and City by promoting a high degree of compatibility between land uses and maintaining a standard for quality development.

Sec. 8-15. Definitions.

~~*Major Exterior Alterations:* Major exterior alterations shall include, but are not limited to, exterior changes to a roof, a change in roofline, a change of any exterior material or exterior treatment from the original exterior material or exterior treatment of a building or structure that requires a building permit, any addition to an existing building or structure, or any other change to the facade of an existing building, structure or property hardscape that requires a building permit such as a change in window, door and awning frame or material.~~

~~*Minor Exterior Alterations:* Minor exterior alterations shall include all exterior improvements and changes to the facade of a building or structure that require a building permit and improvements or changes to an existing property hardscape that are not considered major exterior alterations.~~

Sec. 8-16. Applicability.

All ~~major and minor exterior alterations~~ new construction or redevelopment within the ~~Town Center~~ mixed use planned unit development districts shall be subject to the terms and standards of this article. ~~Major exterior alterations shall be reviewed by the Architecture Design Review Board. Minor exterior alterations shall be reviewed solely by the City's Building Division.~~ Requirements elsewhere in this Land Development Code that are more restrictive than the requirements of this article shall apply unless a variance is granted consistent with the requirements of this article.

Sec. 8-17. Procedure.

~~Applications that are subject to architectural review by the Architecture Design Review Board shall be submitted to the Building Division for review and forwarded to the~~

~~Architecture Design Review Board for its recommendation and findings, and thence to the City Council for their review and action. All applications subject to the normative site development plan process shall be submitted to the Architecture Design Review Board for recommendations and findings prior to being heard by the City's Planning and Zoning Board. Applications that are not subject to architectural review by the Architecture Design Review Board shall be submitted to the Building Division for review and consistency with the terms of this article.~~

Architecture design review shall be conducted during the applicable district rezoning process. In reviewing applications under this section, the ~~staff and/or the Architecture Design Review Board~~ City may request modifications and/or safeguards reasonably related to the recognized and accepted ~~Town Center~~ architectural styles and design standards set forth herein.

To aid the ~~staff, the Architecture Design Review Board~~ and City Council in making the findings required, the applicant ~~should~~ shall submit the following materials in addition to those normally required for site development plan approval at the time of application:

(1) *Elevations and Plans of Proposed Activity.* An elevation/plan or series of elevations/plans in sufficient detail that indicates the color, dimensions, location of service areas and mechanical equipment, screening devices, site furnishes, lighting and decorative fixtures, awnings, type of surface materials proposed to be used on the structure and any other information as determined necessary to ensure consistency with the intent of this article by the Building Official ~~or Architecture Design Review Board~~. Front and rear elevations shall ~~are to~~ be shown, as are side elevations where there are no adjoining buildings.

(2) *Photographs.* Photographs showing the proposed building site and surrounding properties ~~should~~ shall be included with the application to show the relationship between the proposed development or redevelopment and existing conditions in the area.

The applicable review fee shall be submitted at the time of design review application. Applications that do not contain the review fee and submission materials required shall be deemed incomplete and not subject to review until such time that all fees and materials are submitted to the City.

It is the burden of the applicant to submit materials that are adequate to demonstrate that the provisions of this article have been satisfied. Failure of an applicant to submit adequate supporting materials may be a cause for denial of a permit or delay in permit issuance.

Sec. 8-18. General provisions.

The following architectural design requirements shall apply to all development within the mixed use planned unit development districts ~~Daytona Beach Shores Town Center~~ subject to the terms of this article:

8-18.1. *Recognized and Permitted Architectural Styles.* The City has identified several recognized architectural styles for the design of buildings and structures within the mixed use planned unit development districts ~~Town Center~~. One (1) of the following styles approved in this article shall be used in the design or redesign of all applicable buildings and structures within the applicable districts ~~Town Center~~. Permitted architectural styles

include Coastal, Mediterranean, St. Augustine/West Indies and Florida Vernacular unless the City Council finds and determines that the imposition of such requirement would result in a denial of all reasonable beneficial use of a parcel of real property.

8-18.2. *Town Center Master Plan and Pattern Book Adopted.* The Daytona Beach Shores Town Center Master Plan and Pattern Book, and generally referred to as the Town Center Master Plan and Pattern Book in this article, shall be the general ~~interim design standard~~ ~~and~~ set of standards applicable to all development subject to the terms of this article. All colors, signage, orientation and design, exterior treatment, service areas, fences and walls, downspouts, accessory structures, site furnishings, shopping cart storage, miscellaneous outdoor structures and furnishes shall be consistent with the Town Center Master Plan and Pattern Book and the intent of this article which implements said document unless the City Council finds and determines that the imposition of such requirement would result in a denial of all reasonable beneficial use of a parcel of real property.

8-18.3. *Colors.* Colors used shall be contemporary neutral shades, by way of example, but not limited to, cocoa, cafe au lait, taupe, cream, and consistent with the Town Center Master Plan and Pattern Book and the intent of this article unless the City Council finds and determines that the imposition of such requirement would result in a denial of all reasonable beneficial use of a parcel of real property. A color or color scheme which is directly inherent to permitted architectural styles outlined in section 8-18.1, consistent with the City approved color palette but not otherwise consistent with this section or article II of this chapter may be approved by the City Council if ~~the Architecture Design Review Board recommends such action and~~ the City Council determines that the intent of this article has been met by the applicant.

~~Sec. 8-19. Architecture design review board.~~

~~8-19.1. *Created; Composition.* There is hereby created an Architecture Design Review Board which shall be composed of three (3) members appointed by the City Council. The City Council may appoint not more than two (2) alternative members, designating them as such, and these alternative members may act in the temporary absence or disability of any regular member or may act when a regular member is otherwise disqualified in a particular issue presented to the board.~~

~~8-19.2. *Duties and Powers.* The Architecture Design Review Board shall have the sole and exclusive authority and duty to make architectural design recommendations and findings to be submitted to the City Council for final action pursuant to the terms of this article and consistent with the Daytona Beach Shores Master Plan and Pattern Book although the City Council shall have exclusive authority to approve such findings and recommendations. In addition, it shall be the duty of the Architecture Design Review Board to advise and make written recommendations, in an advisory capacity only, to the City Council from time to time on studies of conditions affecting the aesthetic beauty, character, identity and overall appearance within the Town Center, consistent with the Town Center Master Plan and Pattern Book and the intent of this article.~~

~~8-19.3. *Appointments, Terms, Compensation and Qualifications.* The Architecture Design Review Board shall have qualifications and be appointed in the following fashion:~~

~~(1) The City Council shall appoint each member of the Architecture Design Review Board for a term of two (2) years, which term shall expire on January 31 in the year in which the~~

~~term ends. Initially one (1) member shall be appointed for a period of one (1) year, one (1) member for a period of two (2) years, and one (1) member for a period of three (3) years. The terms of the alternative members shall not be subject to expiration except as provided within paragraph (2) of section 8-19.3.~~

~~(2) Board members and alternates shall be residents or real property owners in the City and may serve an unlimited number of terms at all time serving at the pleasure of the City Council and may be removed at any time without cause, by a majority vote of the City Council. Replacement appointees to the board will be appointed to fill out the original term.~~

~~(3) At least one (1) regular member of the board shall be a Florida Licensed Architect. In the event a competent Florida Licensed Architect meeting the terms of section 8-19.3(2) is not reasonably available for appointment as determined solely and exclusively by the City Council, the City Council may appoint any competent Florida Licensed Architect to the Board.~~

~~(4) Board members shall serve without compensation, but may have an annual budgetary allocation within the general operating budget for the purpose of obtaining assistance in studies or recommendations to be submitted for consideration by the City Council.~~

~~(5) The board shall be appointed by and begin their terms on August 10, 2010. The terms of the initial one year appointee shall expire January 31, 2011.~~

~~8-19.4. *Organization and Administration.* The Architecture Design Review Board shall adopt regular meeting dates and shall otherwise regulate its business as it may deem necessary for the proper conduct of its business. Such rules are subject to approval by the City Council in its discretion. The chairperson of the board shall be selected from among its members for a term of one (1) year, but without limitation as to terms. The election of the chair and vice chair shall take place during the regular monthly meeting in February of each year. The board will receive staff assistance from the City Manager and may request assistance from other City approved organizations.~~

~~(1) A quorum shall be necessary before the board shall vote on any matter. A quorum shall consist of three (3) members and shall be necessary before a meeting of the board can be held except for the purposes of continuing the meeting. The affirmative vote of two (2) members shall be required to take any action as to make any recommendation to the City Council.~~

~~(2) In the event the Florida Licensed Architect member is unavailable for a scheduled meeting a report to the City Manager shall be provided by the Florida Licensed Architect member at least two (2) days prior to the meeting. The report shall provide a recommendation and findings to the Board regarding all agenda items subject to board review.~~

~~(3) The City Manager, or designee, shall be responsible for the minutes of the meeting, maintaining the records and the provisions of staff support for the Architecture Design Review Board.~~

SECTION THREE. The City Council of the City of Daytona Beach Shores hereby amends the *Land Development Code*, Chapter 14, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Zoning Regulations,” as follows:

CHAPTER 14. ZONING REGULATIONS.

14.1 – 14-14

Sec. 14-15. Establishment of zoning districts.

The incorporated area of Daytona Beach Shores, Florida, is divided into zoning districts within which the uses of land are regulated as provided by this ordinance.

The following zoning districts have been created and are designated by the accompanying symbols:

RSF-1	Urban Single-Family Residential Detached District
RSF-2	Urban Single-Family Residential Detached District
RMF-1	Multifamily Residential District (High Density)
RMF-2	Multifamily Residential District (Medium Density)
RMF-3	Multifamily Residential District (Low Density)
T	Hotel/Motel District
GC-1	Tourist-Oriented Commercial District
GC-2	Retail/Service Commercial District
PUD	Planned Unit Development
PUD-R	Planned Unit Development-Riverside District
MXD	Mixed Use
P	Public/Quasi-Public
RMF-RD	Residential Multifamily (High Density) Redevelopment District
TOR-RD	Tourist Oriented Residential Redevelopment District
GC-RD	General Commercial-Redevelopment District
TC-MUPUDE	Town Center-Mixed Use Planned Unit Development East District
TC-MUPUDW	Town Center-Mixed Use Planned Unit Development West District

14.16 – 14-30.

Sec. 14-31. Redevelopment Districts.

14-31.1. GC-RD General Commercial-Redevelopment District.

14-31.1.1.

Purpose and Intent. To encourage the development and redevelopment of commercial property in the redevelopment areas.

14-31.1.2.

Permitted Uses.

1. Professional and business offices.
2. Retail stores.

3. Service establishments such as barber or beauty shops, photographic studios, dance or music studios, self-service laundries, tailor shops, drapery or dressmaker shops, laundry or dry cleaning pickup stations (without any on-site dry cleaning activities using chemicals of any type or nature) and similar activities.
4. Newspaper offices (but not printing activities of any type or nature).
5. Food stores and bakeries.
6. Banks and similar financial institutions, small loan agencies.
7. Medical and dental clinics.
8. Private clubs and lodges.
9. Public/quasi-public facilities.
10. Restaurants.
11. Art galleries.
12. Bowling facilities and similar recreational facilities.
13. Performance theaters.
14. Movie theaters.
15. Public parking facilities.
16. Medical offices and facilities.
17. Telecommunication towers and antennas, subject to compliance with section 14-60.1 et seq., and other controlling law.

14-31.1.3. *Special Exceptions.*

1. Internet cafes.
2. Pain management clinics.
3. Automotive service stations.
4. Parking.

14-31.1.4. *Permitted Accessory Uses and Structures.*

1. Alcohol sales for consumption on premises may only be permitted as an accessory use to a public food service establishment licensed by the Florida Department of Business and Professional Regulation (FDBPR) in accordance with controlling Florida law. Said establishment shall not derive more than forty-nine (49) percent of its gross sales from the use, sale or consumption of alcohol on the premises. Such establishment ~~shall~~ may be required to provide the City Manager, or designee, with an accounting report and documents supporting same in form and with content acceptable to the City, prepared by a Florida licensed certified public accountant providing proof that the establishment derives no more than forty-nine (49) percent of its gross sales from the use, sale or consumption of alcohol on the premises. Reports shall be provided to the City Manager within ten (10) days of the end of each quarter (each three-month period) of each year. The establishment shall also possess a valid license issued by the FDBPR in accordance with controlling Florida law.
2. Outdoor storage is allowed only in connection with moving or construction projects and shall comply with all safety requirements deemed necessary by the City's building official. Outdoor storage area(s) shall be determined by the City's building official. Outdoor storage shall be completely removed from the site within five (5) days after moving or construction is completed. Outdoor storage area(s) shall be restored or

enhanced to a condition equal to or better than the condition prior to storage within the time frame established by the City's building official.

3. Temporary outdoor storage of material being placed inside a building for sale.
4. Temporary indoor storage of materials in a building that is for sale. Storage of materials shall comply with safety requirements and time frame established by the chief building official.
5. Parking as outlined in section 14-48.11.
6. Walls and fences shall not be located in the front yard setback except for side yard retaining walls pursuant to an approved site plan.
7. Marquee signs shall only be permitted as an accessory to a movie or performance theater.
8. Parking garages are allowed only as outlined in section 14-48.11.
9. Advertising/newspaper boxes shall not be located in a front or side yard setback.
10. Vehicle service devices shall not be located in a front or side yard setback.
11. Gas pumps are allowed only when located at a convenience store.
12. Dumpsters are allowed only if located in an enclosed area not facing a public right-of-way.
13. Customary site furnishings such as benches, bicycle racks, light standards, trash receptacles, and any other similar features.
14. All other accessory uses or structures customarily incidental to the permitted principal use or structure that are not prohibited by this Code, but as determined in accordance with sound and generally accepted land use planning practices and principles as determined by the City Manager, or designee.

All accessory structures shall be compatible with the architectural design of the principal structure. Such compatibility shall be determined by roof design, colors, materials, finishes, scale and any other feature deemed significant by the chief building official.

14-31.1.5. *Prohibited Uses.* Notwithstanding the provisions of section 14-31.1.2 and section 14-10 of this Code, the following uses are specifically prohibited and unlawful:

1. Body art studios by whatever name or type of nature.
2. Adult entertainment related uses, sales and services.
3. Taverns.
4. Timeshare sales.
5. Telemarketing.
6. Factories, industrial occupancy, hazardous occupancy, institutional occupancy and exterior storage occupancy.
7. Thrift stores.
8. Spiritualists, mediums and palm readers.

14-31.1.6. *Restriction of Exterior Sales and Services.* Notwithstanding section 14-31.1.7 of this Code, all retail sales and services shall occur within a completely enclosed structure and it is prohibited and unlawful for such uses to create any noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot on which the structure is located. It is prohibited and unlawful to violate either of the following conditions:

1. Outdoor items and displays shall not impede walking traffic and shall maintain a minimum sidewalk clearance of five (5) feet.

2. Outdoor items and displays shall not impede vehicular traffic and shall not be placed in any parking area.

14-31.1.7.*Service Areas.* All service areas and mechanical equipment (ground or roof) including, but not limited to, air conditioning condensers, heating units, electric meters, satellite dishes, irrigation pumps, ice machines and dispensers, outdoor vending machines, and propane tanks, displays and refilling areas, shall be screened using architectural features consistent with the structure, or landscaping of sufficient density and maturity at planting to provide opaque screening.

Outdoor vehicle service devices such as gas pumps, air pumps, vacuum machines and other similar devices are exempt from this subsection, but shall be screened from view at the public right-of-way using architectural features consistent with the structure, or landscaping of sufficient density and maturity at planting to provide opaque screening.

14-31.1.8.*Dimensional Requirements.*

Side Yard: Ten (10) feet.

Front Yard: Twenty (20) feet.

Building Height: Forty-five (45) feet.

Rear Yard: Twenty (20) feet.

Lot Coverage: Thirty-five (35) percent.

Minimum Lot Size: Seven thousand five hundred (7,500) square feet.

Minimum Lot Width: Seventy-five (75) feet.

Screening: Screening shall, at a minimum, be accomplished by an opaque fence or wall when abutting a residential district both of which must be six (6) feet in height.

14-31.1.9.*Utility Easements.* Existing overhead utilities within the public rights-of-way shall be relocated to and buried within a utility easement at least fifteen (15) feet in width unless a project involving burying utilities is planned in the City's five-year capital improvement schedule (CIP). If a newly proposed development is located within an area scheduled for utility burial in the five-year CIP, the owner proposing said development shall provide and install all conduits necessary to bury said utilities, as prescribed by the City. This requirement shall be made a condition of the development's building permit and must be completed prior to the issuance of a certificate of occupancy. If a newly proposed development is located in an area that is not scheduled for utility burial in the five-year CIP, the owner proposing said development shall be required to relocate and bury the existing overhead utilities into the utility easement. This will involve all existing overhead utilities, located in the public rights-of-way, along the property's frontage. The owner proposing said development shall coordinate with the City prior to the issuance of a building permit to ensure adequate timing and phasing for burying the existing overhead utilities. The requirement to relocate and bury existing overhead utilities shall be made a condition of the development's building permit and must be completed prior to the issuance of a certificate of occupancy. The utility easement shall be dedicated to the City prior to the issuance of a certificate of occupancy. Landscaping, signage, driveways, sidewalks, light fixtures and utility appurtenances may be located within the easement. All other encroachments within the easement shall be prohibited. The easement shall run north-south along the entire length of the property. The City finds that there is a rational nexus between the requirement to dedicate the utility easement and the impacts of

development as set forth and that there is not a violation of the rough proportionality test relative to such dedications. Any property owner may appeal the requirement in accordance with the procedures of this Code. The placement and installation of utilities shall be at the expense of the property owner.

14-31.1.10. *On-Site Underground Utilities.* All new on-site utilities shall be buried underground. Existing overhead service connections shall be relocated underground, if the electrical distribution system serving the site is underground or in the event of any alterations or repairs to the electrical service connection exceeding one thousand dollars (\$1,000.00) in value. The placement and installation of utilities shall be at the expense of the property owner.

~~14-31.1.11. *Architecture Design and Review in the Town Center.* All development and redevelopment of properties or structures in the Daytona Beach Shores Town Center as designated in the City's Comprehensive Plan shall be subject to the applicable provisions of chapter 8, article III, entitled "Town Center Development."~~

Sec. 14-32. TC-MUPUDE (Town Center Mixed Use Planned Unit Development East).

14-32.1. Purpose and Intent.

The City of Daytona Beach Shores needs to establish a method to provide for optional planned unit development for the east side of S.R. A1A ~~in a Town Center redevelopment district~~ on tracts of land suitable in size, location and character for the uses proposed to be planned and developed and to provide a greater dimension to the scope of planning to meet the needs of the city and discourage planning to meet solely the spatial requirements of the land. The TC-MUPUDE shall only be permitted on sites located in the Town Center Future Land Use category as identified ~~on~~ in the ~~city's adopted~~ City's Comprehensive Plan.

14-32.2. Unified Ownership.

All land within the TC-MUPUDE (hereafter PUD) shall be under the ownership of the applicant, be it an individual, partnership or corporation, or groups of individuals, partnerships, or corporations. PUD applicants shall present firm evidence at the time of application of unified ownership of the entire area within the proposed PUD. ~~However if the Town Center public parking facility is located within the PUD boundary then the acreage in the Town Center public parking facility shall be counted as part of the total acreage needed for the minimum PUD size.~~

14-32.3.1. Permitted Uses and Structures. (East Side AIA)

Ground Floor Uses: Arcade, art gallery, bowling alleys, retail bakery, bank, beauty salon, clothing cleaning, health spa, fitness center, gift shop, internet cafe, new clothing store, performance theater, convention center, restaurant and tennis club, multifamily residential, timeshare units, and hotel units. Multifamily residential units shall not be located on the same floor as timeshare and or hotel units. Use location shall be clearly defined in the PUD development agreement. Changing of floor designations shall not constitute a substantial change in the PUD but shall be approved in writing by the building official and the fire marshal.

Other Floor Uses: Multifamily residential, timeshare units, and hotel units. Multifamily residential units shall not be located on the same floor as timeshare and or hotel units. Use location shall be clearly defined in the PUD development agreement. Changing of

floor designations shall not constitute a substantial change in the PUD but shall be approved in writing by the building official and the fire marshal.

14-32.3.2. Permitted Accessory Uses and Structures.

Any use or structure customarily incidental to the permitted principal use or structure, including but not limited to sidewalk restaurant and cafe. Accessory uses and structures that are not clearly defined in the PUD development agreement shall be approved in writing by the building official and fire marshal.

14-32.3.3. Permitted Conditional Uses.

Dumpsters, sales offices and outdoor golf to be approved in writing by the building official and fire marshal.

14-32.4. PUD Density.

The maximum density of a planned unit development shall be seventy (70) units per acre for mixed use multifamily residential/hotel units/timeshare units. This density shall apply to new construction with an approved PUD development agreement and will not apply to any conversions of existing hotel, motel or condominium developments.

14-32.5. Oceanfront PUD Density Calculation.

The density for an oceanfront PUD shall be calculated from the mean high-water line to the right-of-way of S. Atlantic Avenue. In no case shall the density be calculated using any property located on the west side of S. Atlantic Avenue.

14-32.6. Minimum Parcel Size.

A PUD shall have a minimum of five (5) acres. A parcel size of less than five (5) acres, but in no case less than three (3) acres, may be approved as a PUD if the City Council finds the project to be of significant public interest and benefit in the provisions of the development order approving the PUD. ~~A lesser minimum area may be approved if the development includes parking in the Town Center parking facility.~~

14-32.7. Minimum Street and Sidewalk Requirements.

All streets within the PUD shall be public unless private streets are approved by the city council. The city council shall not approve a private street if such street will be needed to serve the area adjoining the proposed PUD.

When streets are to be private, the developer shall establish a legal organization or entity to own and manage the streets and a method for the organization or entity to assess the property owners having beneficial use of the streets. The method of assessment shall provide the legal right for the managing organization or entity to impose liens against any properties for which payment of any assessment is not made. Collection of assessments and enforcement of the payment thereof shall be the responsibility of the organization or entity, and shall not be the responsibility of the city. Payment of the assessments imposed by the organization or entity by a property owner shall not relieve that property owner from any taxes, fees, charges or assessments imposed by the city.

Legal documents establishing common ownership and management of the streets in the PUD shall provide for clear notice to purchasers and prospective purchasers of properties in the PUD that the organization or entity shall have the authority to make assessments and impose liens as provided in this section. Furthermore, such documents shall provide for clear notice that the city shall never be obligated to accept maintenance responsibility for the private streets. Clear notice shall include a covenant contained within the deed of conveyance. The street and public utility services proposed within a subdivision of lots shall be built or guaranteed by a performance and payment bond or letter of credit in an

amount equal to one hundred twenty-five (125) percent of the costs of constructing the street and the public utilities prior to approval of the subdivision plat by the city council. Street rights-of-way within a PUD shall conform to the following minimum requirements:

1. *Public (City-Maintained) Streets:*

a. *Minimum Right-of-Way Widths:*

(1) City-maintained collector streets: Sixty (60) feet.

(2) City-maintained local streets: Fifty (50) feet.

b. *Minimum Pavement Widths:*

(1) City-maintained collector streets: Twenty-two (22) feet.

(2) City-maintained local streets: Twenty-two (22) feet.

2. *Public Streets:*

a. *Minimum Right-of-Way Widths:*

(1) Private local streets: Thirty (30) feet.

(2) Private service access ways: Twenty (20) feet.

b. *Minimum Pavement Widths:*

(1) Private local streets:

(a) Two-way: Twenty (20) feet.

(b) One-way: Ten (10) feet.

(2) Private service access ways: Sixteen (16) feet.

14-32.8. *Sidewalk Requirement.*

Sidewalks shall be installed within the road right-of-way on both sides of the road. Sidewalks shall have a minimum width of four (4) feet. Within a private road right-of-way, the city council may require sidewalks on only one (1) side of the road if the pedestrian access system provides complete access to the site, including the major points of ingress and egress, in the PUD. Sidewalks shall be designed to allow accessibility and use by the handicapped.

14-32.9. *Yard Requirements and Building Height.*

No minimum yards shall be required within a PUD except that the front yard on dedicated public streets shall be twenty (20) feet for the first story of building height. For each additional story up to and including four (4) stories the front yard shall increase five (5) feet. For each additional story up to and including eight (8) stories the front yard shall increase four (4) feet. For each additional story over eight (8), the front yard shall increase three and one-half (3.5) feet. Porte cocheres or marquees may extend into the required front yard a maximum of twelve (12) feet but in no case shall the front setback be less than twenty (20) feet. Peripheral yards abutting the PUD boundary on the ocean shall be fifty (50) feet. All other peripheral yards abutting the PUD boundary shall be two and one-half (2.5) feet for every one (1) story of building height PLUS ten (10) feet. The city council may require greater peripheral yards when it is determined that the proposed use may have adverse effects upon adjoining properties or prejudice development on adjoining properties.

Underground parking garages shall not be constructed within ten (10) feet of any side or fifteen (15) feet of any front lot line and shall maintain the fifty-foot ocean rear yard setback. Underground parking structures shall be waterproofed and constructed in a manner that does not impede the installation or maintenance of required landscaping and associated irrigation systems above the garage.

Building Height: Twelve (12) stories maximum.

14-32.10. Schedule of Fees.

An itemized schedule of fees shall be specified in the ~~current Daytona Beach Shores Land Development Code~~ Schedule of Fees which is available at the office of the city clerk, and the city council ~~may expressly reserves the right to amend the attached schedule by resolution~~ duly adopted.

14-32.11. Off-Street Parking and Loading Space.

Off-street parking and loading space shall be provided pursuant to Section 14-48 of the Land Development Code, in the following schedule:

~~A minimum of one (1) private parking space per multifamily residential, timeshare or hotel/motel unit shall be provided within the boundary of the PUD on the nonpublic parking area.~~

~~One half (1/2) parking space per multifamily residential, timeshare or hotel/motel unit shall be provided by the city in the Town Center parking facility if PUD is located within two hundred (200) feet of the Town Center parking facility.~~

~~One (1) parking space per three hundred (300) net square feet of commercial/office space.~~

~~All other uses and parking requirements shall be as specified in section 14-48 of the Land Development Code.~~

~~Off-street loading space shall be provided as specified in section 14-48, Ordinance No. 77-5, as amended.~~

14-32.12. Landscaping Requirements.

Landscaping shall be provided as specified in section 14-46, ~~Ordinance No. 77-5, as amended~~. In addition to section 14-46 and section 14-24.14, thirty (30) percent of the provided front yard and twenty-five (25) percent of the provided side yards should be landscaped. In circumstances where site and design restrictions prohibit achieving these yard landscaping percentage requirements, the city council may permit the transfer of the landscape shortage, in equivalent square footage, to other required landscaped yards. In cases where landscape transfers are permitted, the receiving yards shall not be on the oceanfront.

14-32.13. Sign Requirements.

All applications shall describe signs proposed and such signs shall be subject to approval of building official ~~in accordance with the provisions of the city sign ordinance, Ordinance No. 79-1.~~

Cross reference— Signs and advertising, App. G, ch. 16.

14-32.14. Open Space and Common Facilities Requirements.

Sixty (60) percent of a project shall be open space. A minimum of thirty-five (35) percent of the open space shall be designated for use as common open space or common facilities. No area shall be accepted as common open space or common facilities unless it meets the following standards:

1. Common open space and common facilities shall be dedicated to and usable by all residents of the planned unit development.
2. Common open space and common facilities must be used for amenity or recreational purposes.
3. The location, shape, size and character of common open space and common facilities must be shown on the plan.

4. Common open space must be suitably improved for its intended use. Common open space containing natural features worthy of preservation may be left unimproved
5. Common open space shall not include any structures other than recreational.
6. Appropriate arrangements acceptable to the Daytona Beach Shores City Council shall be made to guarantee the continued maintenance of common open space through the establishment of trust funds and creation of a homeowners association.
7. Oceanfront PUDs shall have at least one (1) ten-foot dedicated easement for public access, running through the full depth of the property from S. Atlantic Avenue to the beach, for every one (1) high-rise building on-site. This easement shall be dedicated in perpetuity for public pedestrian access to the beach. In cases where more than one (1) public beach access easement is required on-site, the following shall apply:
 - (a) Required easements may be combined and located at the discretion of the Daytona Beach Shores City Council to ensure optimum public benefit.
 - (b) All required easements shall be recorded in the public record and provided to the city clerk at the time of rezoning approval.
 - (c) If a phase is not constructed the associated recorded easement for that phase may be reverted back to the developer or his assigns. This reversion shall be considered a material change.
 - (d) Easements shall be fully landscaped and maintained by the developer or his/her assigns until such time that the city constructs a physical walkway on said easement.
 - (e) Easement areas shall not be used to satisfy the requirements of sections 14-24.12, 14-24.14, and 14-46

14-32.15. Underground Utilities and Site Design Standards for Oceanfront PUDs.

14-32.15.1.

Underground Utilities.

1. All utilities on-site within a PUD including, but not limited to, telephone, television cables and electrical systems shall be installed underground. Appurtenances to these systems and primary facilities which require aboveground installation may be exempted.
2. Existing overhead utilities within the public rights-of-way shall be relocated to and buried within a ten-foot-wide utility easement, unless a project involving burying utilities is planned in the city's five-year capital improvement program (CIP). If a newly proposed development is located within an area scheduled for utility burial in the five-year CIP, the owner proposing said development shall provide and install all conduits necessary to bury said utilities, as prescribed by the city. This requirement shall be made a condition of the development's building permit and must be completed prior to the issuance of a certificate of occupancy. If a newly proposed development is located in an area that is not scheduled for utility burial in the five-year CIP, the owner proposing said development shall be required to relocate and bury the existing overhead utilities into the ten-foot-wide utility easement. This will involve all existing overhead utilities, located in the public rights-of-way, along the property's frontage. The owner proposing said development shall coordinate with the city prior to the issuance of a building permit to ensure adequate timing and phasing for burying the existing overhead utilities. The requirement to relocate and bury existing overhead utilities shall be made a condition of the development's building permit and must be completed prior to the issuance of a certificate of occupancy. The ten-foot easement shall be dedicated to the city or its designee, prior to the issuance of a certificate of occupancy. Landscaping, signage,

driveways, pedestrian access, light fixtures and utility appurtenances may be located within the easement. All other encroachments within the easement shall be prohibited. The easement shall run along the entire length of the property where overhead utilities within the public rights-of-way exist.

14-32.15.2.Site Design Standards for Oceanfront PUDs.

1. All construction materials shall be resistant to the effects of sun and salt water.
2. All service areas shall be screened from offsite public view by walls or landscaping.
3. The entire perimeter of the property adjacent to Atlantic Avenue and the first fifteen (15) feet inside the property shall be heavily landscaped such that the primary view toward the property from Atlantic Avenue shall include conspicuous and lush landscaping. Driveway accesses, walkways and fountains may be placed within this landscape area provided their size and location does not conflict with the purpose of this landscape area.

14-32.16. Rezoning Application Procedures for PUD Approval.

1. *Concept Plan.* Prior to submitting an application for a PUD the developer shall submit a concept plan of the entire parcel to the community services director. The concept plan shall be considered by the city staff and the developer to be a means of familiarizing the developer with the requirements and recommendations of the various departments affecting the proposed project. The concept plan and supporting data sheets shall include a vicinity location map of the site; legal description; boundaries of tract; total acreage in tract; general proposed land use areas; the approximate height, location, character and density of dwelling units and other structures; the tentative street layout; approximate rights-of-way alignment and widths; sites for schools, parks and other public uses; existing structures, current zoning; source of water supply; method of sewage disposal; and other appropriate information to make a schematic presentation of the development plan. No development approval is given at the concept plan stage. The community services director shall invite review and comment upon the concept plan by affected departments within the city or other intergovernmental agencies affected by the proposed plan.

2. *Preliminary Plan.* After the developer has submitted a concept plan to the community services director, the preliminary plan must be prepared and submitted to the planning and zoning board along with a completed application obtained after concept plan review, and application fees are paid as determined during the concept plan review meeting. This submission shall constitute filing of the rezoning application. The preliminary plan shall consist of six (6) copies of a site plan and written development agreement consisting of information as outlined below.

a. *Preliminary Site Plan Exhibits.* The site development plan shall consist of the following information or supporting data thereto:

- (1)Name of project and name, address and telephone number of the developer and professional project engineers, architects, land planners.
- (2)Date plan was drawn, scale and north arrow.
- (3)Names and location of adjoining streets and names of abutting property owners.
- (4)Legal description of property, property boundaries and all existing streets, buildings, railroads, bulkhead lines, easements and other important features in or adjoining the property.

- (5)Wooded areas, wetland areas, 100-year floodplain area, marshes, watercourses, ponds and other similar conditions affecting the site.
 - (6)Topography of the site at a one-foot contour interval based on mean sea level data.
 - (7)General soil types and depth to hardpan or mottling.
 - (8)Vegetation types.
 - (9)Natural drainage patterns.
 - (10)Statement of proposed arrangements for maintenance of common open space and common facilities including private streets, if applicable.
 - (11)Tabulation of densities according to proposed dwelling type.
 - (12)Proposed street right-of-way, pavement widths, access and traffic flow into, out of and within the development and particularly demonstrating how vehicular traffic will be separated from pedestrian and other types of traffic.
 - (13)General feasibility plans for water, sewer and stormwater drainage.
 - (14)Major contour changes, dikes or any artificially created water body or natural water bodies or courses that will be altered.
 - (15)Such other additional material, maps, studies or reports which the city staff, planning and zoning board or the city council determines ~~feels~~ are necessary to determine that the PUD complies with applicable standards and guidelines of these regulations.
 - (16)The developer shall provide due public notice pursuant to section 2-2 of the time and place that the planning and zoning board and the city council will consider the site plan.
- b. *Written Development Agreement.* In addition to a site development plan, a written agreement must be prepared following a general format supplied by the city attorney at the time of concept plan review. The development agreement, along with the site development plan, shall govern the development of the PUD and shall regulate the use of the land regardless of ownership. The development agreement shall contain the following information:
- (1)Statement and evidence of unified ownership and control.
 - (2)Statement agreeing to:
 - (a)Proceed with the proposed development according to all of the PUD regulations;
 - (b)Provide agreements, contracts, deed restrictions and sureties acceptable to the city legal department for completion of the development or approved development phase for the continuing operation and maintenance of such areas, functions and facilities as are not to be provided, operated or maintained at the public expense; and
 - (c)Bind their successors in title to any commitments made under subsections (a) and (b) preceding.
 - (d)Dedication to the city of all collectors and local roads within a PUD shall occur within eighteen (18) months of the completion of the PUD.
 - (3)Tabulation of percentages of land devoted to the several dwelling types, streets, recreational uses, parks, open space or other uses.
 - (4)Tabulation of densities by proposed dwelling types.
 - (5)Building heights.
 - (6)Building spacing.
 - (7)Building floor area and dimensions.
 - (8)Yard areas and buffers.
 - (9)General statement regarding the feasible disposition of sanitary waste and stormwater together with proposed arrangement for potable water.

(10) Statement of proposed arrangements for maintenance of common open space and common facilities including private streets if applicable.

(11) Where PUD is planned for development over a period of years, a schedule showing the proposed time within which final approval of each phase of the PUD is intended to be

fee²) The substance of covenants, grants or easements, or other restrictions proposed to be imposed upon the use of lands, buildings and structures together with proposed easements or grants for public utilities.

(13) Such other information which the city staff, planning and zoning board and city council determine ~~feel~~ is necessary to determine that the PUD complies with applicable standards and guidelines of these PUD regulations.

(14) Architectural Controls. Such controls shall provide for a common architectural theme to be applied to all development within the PUD and such controls shall be consistent with the provisions of Chapter 8, Article III."

(15) Permitted uses, conditional uses and special exceptions.

3. *Preliminary Plan Review.*

a. *Planning and Zoning Board.* After the planning and zoning board has determined that all of the required information has been prepared and is shown either on the site development plan or development agreement, the planning and zoning board shall have sixty (60) days to review the plan according to established plan review procedures and to provide comments for city council review. If no plan review has been conducted within the sixty-day period, the plans will be forwarded to the city council without the benefit of the planning and zoning board's comments or recommendations. Upon a showing of good cause by the applicant or upon its own motion, the planning and zoning board may request that the city council grant a time extension for further review of the application. The request for extension shall state the reason or reasons for which extension is sought. The developer shall provide due public notice pursuant to section 2-2 of the time and place that the planning and zoning board will review the preliminary plan.

b. *City Council Review.* The preliminary plan shall be approved or disapproved by the city council within thirty (30) days after the city council reviews the preliminary plan and planning and zoning board comments. Approval of the preliminary plan shall be indicated by the signature of the mayor and attested by the city clerk. If the preliminary plan is disapproved, the reasons for disapproval shall be specified in writing. The applicant may elect to change the preliminary plan in accord with the council's conditions. The developer's agreement to such changes must be in writing to the council and appropriate amendments must be made to the preliminary site development plan and development agreement within ninety (90) days after the council meeting and before submitting a final plan.

4. *Final Plan.* In a PUD no development of any kind shall take place, including cleaning, filling, excavations, dredging, tree cutting or clearing for road right-of-way and no building permit shall be issued until the city council has given final approval to the final plan. The final plan shall consist of a minimum of six (6) copies of the final site development plan for the entire project or a phase thereof and a minimum of six (6) copies of the final written development agreement consisting of information as listed below. The final plan shall include:

a. *Final Site Development Plan Exhibit.*

(1)Such drawings, specifications, covenants, easements, conditions and form of performance bonds as were specified in the written resolution.

(2)All necessary state and federal permits.

(3)Engineering plans and drawings for water, sanitary sewers and storm sewer system showing size, cross-section and profiles as required by the public works department. Detailed site plan showing building locations, landscaping, parking areas, vehicular parking spaces, access drives and other site information as required by the planning and zoning board or other reviewing agency.

(4)The approval of the concept plan shall be subject to the applicant's guaranteeing the installation of all improvements by filing a performance bond, duly executed by an approved corporate surety company (or secured by a mortgage on the real estate acceptable to the city) or by the applicant's creation of an irrevocable escrow by certified or cashier's check or cash, in a form acceptable to the city, in an amount equal to one hundred (100) percent of the construction cost, including the land fill as estimated by the building official and consulting engineer, if any. All consulting engineer fees shall be paid solely by the applicant before final approval of the final plan.

One hundred (100) percent of the performance bond of the alternate guarantee approved by the city shall remain in effect until completion of all improvements and their acceptance by the city of the entire project as set forth in the adopted final plan.

A maintenance warranty bond, executed by an approved corporate surety company or secured by certified or cashier's check or cash in irrevocable escrow, in the amount of ten (10) percent of the construction cost of all improvements, as determined by the building official and consulting engineer, if any, shall accompany the final plan for final review by the planning and zoning board. Such bond shall be for a period of one (1) year commencing upon the issuance of the certificate of completion by the city and shall cover all improvements installed by the applicant. All consulting engineer fees, if any, shall be paid by the applicant for final review of the final plan.

(5)The developer shall provide due public notice pursuant to section 2-2 of the time and place that the planning and zoning board and/or the city council will consider the final site plan.

b. *Written Development Agreement.* The written development agreement shall begin its final form and shall contain all revisions as part of the preliminary plan review and copies of necessary state and federal permits.

5. *Final Plan Review.*

a. *City Department Review.* A minimum of six (6) copies of final plans shall be submitted to the planning and zoning board along with any applicable fees. The planning and zoning board shall distribute plans for departmental review and approval. Each department shall review the plans within thirty (30) days after it was submitted to the planning and zoning board. If no comments are received within thirty (30) days from a department, the plan will be forwarded to the city council.

b. *City Council Review.* The city council shall review and take action on the final plan within thirty (30) days after it is scheduled on the council agenda. If the final plan is consistent with the approved preliminary plan and meets all requirements of this section, the city council shall approve the final plan. Approval shall be indicated on each copy by signature of the chairman of the city council and attested by the city clerk. If disapproved, the reasons for disapproval shall be stated in writing. Upon approval of the final plan by

the city council, the zoning for the subject property shall be designated as PUD. If the applicant or his assigns do not begin construction of improvements in accordance with the plan as approved, within one (1) calendar year following the date of approval of the final plan, the area previously designated PUD shall revert to its former zoning classification automatically and without any formal action by the city council.

6. Plan and Written Development Agreement Amendments. If, after approval, execution and recording of the written development agreement and final plan by the city council, the developer wishes to have the written development agreement and/or final plan or any portion thereof amended in any material respect inconsistent with the substantial compliance criteria found in section 2-2 of this Code, the same procedures as provided in section 14-24.16, 2—5 shall be followed except in the following respects:

- a. The preliminary plan and the final plan exhibits shall be limited to those that are necessary to indicate all proposed amendments to the approved final plan, and those exhibits that would be affected by the proposed amendments to the approved final plan.
- b. The written development agreement shall be limited to proposed amendments to the approved written development agreement indicating all revisions required to the approved written development agreement.
- c. The developer shall provide due public notice pursuant to section 2-2 of the time and place that the planning and zoning board and the city council will consider amendments to the final plan.

Any proposed material change to the final plan or written development agreement that is that substantially compliant with this Code shall require administrative approval from the city.

7. Expiration of Written Development Agreement. Any written development agreement executed and recorded after the adoption of this Development Code shall be required to include an expiration date or series of expiration dates tied to specific improvements or phases. Such date(s) shall be determined based upon the size of the project, the installation of physical improvements, and any other factors pertinent to the specific proposal. If the city should determine that the developer has failed to satisfy the requirements necessary to avert expiration, the development agreement shall be considered null and void, and approval of any additional final development plans for the PUD shall not be permitted without resubmission and approval of a new development agreement in accordance with the procedures established in this Development Code.

14-32.17.

Architecture Design and Review in the Town Center. All development and redevelopment of properties or structures in this zoning district ~~the Daytona Beach Shores Town Center as designated in the City's Comprehensive Plan~~ shall be subject to the applicable provisions of chapter 8, article I ~~III~~, entitled "Town Center Mixed Use Planned Unit Development."

Sec. 14-32.1. TC-MUPUDW (Town Center Mixed Use Planned Unit Development West).

14-32.1.1. Purpose and Intent.

The City of Daytona Beach Shores has determined that it is beneficial and desirable to establish a method to provide for optional planned unit development for the west side of

State Road A1A ~~in the Town Center area of the community redevelopment area~~ on tracts of land suitable in size, location and character for the uses proposed to be planned and developed and to provide a greater dimension to the scope of planning to meet the needs of the City and discourage planning to meet solely the spatial requirements of the land. The MUPUDW may only be permitted on sites located in the Town Center Future Land Use category as identified in the City's Comprehensive Plan.

14-32.1.2. Permitted Uses and Structures.

Ground Floor Uses: Arcade, art gallery, bowling alleys, drug stores, retail bakery, bank, beauty salon, clothing cleaning, convenience store without gas sales, health spa, fitness center, gift shop, internet cafe, new clothing store, office supply, outdoor recreation equipment, performance theater, photographic sales and service, restaurant, non x-rated video store, and uses that are similar in character, density and intensity based upon generally accepted planning and land use practices and principles, as determined by the Community Services Director.

Second Floor Uses: Office, medical uses, medical and dental clinics, research and development companies, assembly of technical equipment or software, call centers, private clubs and lodges non-adult related, and uses that are similar in character, density and intensity based upon generally accepted planning and land use practices and principles, as determined by the Community Services Director.

Second Through Seventh Floor Uses: Hotels/motels, timeshare developments and multifamily residential (condominiums), including hotel/motel and multifamily accessory use, and uses that are similar in character, density and intensity based upon generally accepted planning and land use practices and principles, as determined by the Community Services Director.

14-32.1.3. Permitted Accessory Uses and Structures.

Billiards, video games, sidewalk cafes, alcohol sales.

14-32.1.4. Permitted Uses with Special Development Requirements.

Uses: Department store, general merchandise store and grocery stores, and uses that are similar in character, density and intensity based upon generally accepted planning and land use practices and principles, as determined by the Community Services Director.

Special Requirements: The uses will be permitted on the ground floor only and shall not exceed ten thousand (10,000) square feet.

14-32.1.5. Dimensional Requirements.

Minimum Parcel Size: A PUD shall have a minimum of ~~two (2)-three (3)-acres.~~ ~~The development may include the Town Center Parking Facility and the land area of the Town Center Parking Facility may be counted as part of the PUD required three (3) acres.~~

Minimum Lot Area: ~~No minimum lot size shall be required if the total PUD meets the minimum three-acre requirement.~~

Lot Coverage: ~~None.~~ 40 percent.

Front Yard Setback: Fifteen (15) feet for the first two (2) floors of building fronting S. Atlantic Avenue and twenty (20) feet for the remaining floors fronting S. Atlantic Avenue. There shall be no setback requirements for awnings.

Height: Seven (7) floors.

14-32.1.6. PUD Density.

The maximum density of a PUD shall be forty (40) units per acre for mixed use residential/hotel units. This density shall apply to new construction, but shall not apply to any conversions of existing hotel, motel or condominium developments.

14-32.1.7. Unified Ownership.

All land within the PUD shall be under the ownership of the applicant, be it an individual, partnership or corporation, or groups of individuals, partnerships, or corporations. PUD applicants shall present satisfactory evidence at the time of application of unified ownership of the entire area within a proposed PUD which shall, at a minimum, include a current title search approved by the City Attorney.

~~*14-32.1.8. Town Center Boulevard Requirements.*~~

~~All property within the PUD shall have public access to the right-of-way for the proposed Town Center Boulevard. Minimum lot frontage on the proposed Town Center Boulevard shall be one hundred (100) feet.~~

14-32.1.9. Sidewalk Requirement.

Perimeter sidewalks shall be installed on all sides of the PUD in lieu of an alternative design specified in the PUD agreement. All exterior sidewalks shall have a minimum width of fifteen (15) feet. All sidewalks shall be designed to provide internal and external connectivity, accessibility and use by the disabled in accordance with controlling law to include, but not be limited to, the Americans With Disabilities Act.

14-32.1.10. Schedule of Fees.

An itemized schedule of fees shall be specified in the "Daytona Beach Shores Land Development Code Schedule of Fees" which is available at the office of the city clerk, and which may be amended from time to time.

14-32.1.11. Off-Street Parking and Loading Space.

Off-street parking and loading space shall be provided as specified in Section 14-48 of this Land Development Code.

14-32.1.12. Landscaping Requirements.

Landscaping shall be provided as specified in this Land Development Code. Notwithstanding any provisions of this Land Development Code, if the applicant elects to set the building within fifteen (15) feet of a public street, then the sidewalk of fifteen (15) feet in width may replace the landscape buffer.

14-32.1.13. Sign Requirements.

All applications shall describe all signs proposed and all of such signs shall be subject to approval of building official in accordance with the provisions of controlling law.

14-32.1.14. Underground Utilities.

All utilities within a PUD including telephone, television cables and electrical systems shall be installed underground. A fifteen (15) foot underground utility easement shall be required to be granted to the City for State Road A1A.

14-32.1.15. Rezoning Application Procedures for PUD Approval.

1. Compliance with regulations in effect at the time of development. Unless otherwise specifically described within the master development agreement, final development plans and development permits for uses/structures within the PUD shall comply with the controlling land development regulations and fee resolutions in effect at the time of plan approval or permit application. This provision shall be included in all master development agreements.

2. Preapplication conference. The developer or developer's representative shall, prior to submitting a rezoning application, meet with the appropriate City personnel to discuss basic rezoning and site plan requirements and to consider features of the site and the proposed development. Discussions shall include the application, rezoning and development review process. No person may rely upon any comment made in good faith concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the preapplication conference as a representation or implication that the proposal will ultimately be approved or rejected in any form. No vested rights shall accrue prior to rezoning and/or site development plan approval by the city council.

3. Application for conceptual development plan and master development agreement approval. Application for conceptual plan and master development agreement approval shall constitute the rezoning application consistent with the rezoning requirements of sections 14-66 and 14-67 of this Code. Applications shall be made to the City utilizing the form provided by the City and accompanied by the appropriate review fee. Initial application shall be accompanied by copies of the conceptual plan, signed and sealed by a registered engineer, architect, or landscape architect, as required by this Code, and copies of the master development agreement such number of copies being determined by the City based upon its needs. Conceptual plans shall be prepared according to the standards of this Code and the controlling requirements of law. No development approval is given at the concept plan stage. The City may invite review and comment upon the concept plan by affected departments within the city or other intergovernmental agencies affected by the proposed plan.

a. Review of application materials. Within five (5) working days of the receipt of an application, the City shall determine whether the submittal is complete. Incomplete submittals shall be returned to the applicant with the deficiencies noted in writing.

b. Initiation of review. When an application is determined to be complete, it shall be reviewed within twenty (20) working days.

c. Conceptual development plan and required exhibits. Upon application for rezoning to the TCMUPUDW District, the applicant shall provide a conceptual development plan, which shall be an exhibit of the master development agreement. The conceptual development plan shall consist of the following information or supporting data thereto:

(1) Name of project and name, address and telephone number of the developer and professional project engineers, architects, land planners.

(2) Date plan was drawn, scale and north arrow and vicinity location map of the site.

(3) Names and location of adjoining streets and names of abutting property owners.

(4) Legal description of property, property boundaries and all existing streets, buildings, railroads, bulkhead lines, easements and other important features in or adjoining the property.

(5) Total acreage of tract; general proposed land use areas; the approximate height, location, character and density of dwelling units and other structures; the tentative street layout; approximate rights-of-way alignment and widths; sites for schools, parks and other public uses; existing structures, current zoning.

(6) Wooded areas, wetland areas, one hundred-year floodplain area, marshes, watercourses, ponds and other similar conditions affecting the site.

(7) Topography of the site at a one-foot contour interval based on mean sea level data.

- (8) General soil types and depth to hardpan or mottling.
 - (9) Vegetation types.
 - (10) Natural drainage patterns.
 - (11) Statement of proposed arrangements for maintenance of common open space and common facilities including private streets, if applicable.
 - (12) Tabulation of densities according to proposed dwelling type.
 - (13) Proposed street right-of-way, pavement widths, access and traffic flow into, out of and within the development and particularly demonstrating how vehicular traffic will be separated from pedestrian and other types of traffic.
 - (14) General feasibility plans for the supply of water and its source, disposal and treatment of sewer and management of stormwater.
 - (15) Major contour changes, dikes or any artificially created water body or natural water bodies or courses that will be altered.
 - (16) Such other additional material, maps, studies or reports which the City staff, the Planning and Zoning Board or the City Council feel determine are necessary to determine that the PUD complies with applicable standards and guidelines of these regulations.
 - (17) The developer shall provide due public notice pursuant to section 2-2 of the time and place that the planning and zoning board and the city council will consider the site plan. Proof of such notice shall be provided prior to the commencement of a hearing.
- d. Written development agreement. In addition to a conceptual development plan, a written development agreement must be prepared following a general format supplied by the City at the time of concept plan review. The development agreement, along with the conceptual development plan, shall govern the development of the PUD and shall regulate the use of the land regardless of ownership. This development agreement is a home rule development agreement and not a statutory development agreement. The master development agreement shall contain the following information:
- (1) Statement and evidence of unified ownership and control.
 - (2) Statements agreeing to:
 - (a) Proceed with the proposed development according to all of the PUD regulations;
 - (b) Provide agreements, contracts, deed restrictions and sureties acceptable to the City Attorney for completion of the development or approved development phase for the continuing operation and maintenance of such areas, functions and facilities as are not to be provided, operated or maintained at the public expense; and
 - (c) Bind their successors in title to any and all commitments.
 - (d) Dedication to the city of all collectors and local roads by instrument(s) of conveyance acceptable to the City Attorney.
 - (3) Tabulation of percentages of land devoted to the several dwelling types, streets, recreational uses, parks, open space or other uses.
 - (4) Tabulation of densities by proposed dwelling types.
 - (5) Building heights.
 - (6) Building spacing.
 - (7) Building floor area and dimensions.
 - (8) Yard areas and buffers.
 - (9) General statement regarding the feasible disposition of sanitary waste and stormwater together with proposed arrangement for potable water.

(10) Statement of proposed arrangements for maintenance of common open space and common facilities including private streets if applicable.

(11) Where PUD is planned for development over a period of years, a schedule showing the proposed time and phases within which final approval of each phase of the PUD is intended to be requested.

(12) The substance of covenants, grants or easements, or other restrictions proposed to be imposed upon the use of lands, buildings and structures together with proposed easements or grants for public utilities.

(13) Architectural controls. Such controls shall provide for a common architectural theme to be applied to all development within the PUD and such controls shall be consistent with the provisions of Chapter 8, Article III.

(14) Such other information which the Planning and Zoning Board or City Council determined are necessary to determine that the PUD complies with applicable standards and guidelines of these PUD regulations.

4. *Application Review Process.*

a. Staff review. All applications shall be reviewed by such members of City staff as determined by the City Manager. Formal staff comments shall be transmitted in writing to the applicant no later than twenty-five (25) working days after the application has been determined as complete.

b. All time requirements relating to the PUD review and approval processes may be extended by the City Manager based upon good cause being shown in which case such action on an extension shall be in writing and distributed to the applicant.

14-32.1.16. *Approval of Application for Rezoning.*

1. *Planning and Zoning Board Action.* The Planning and Zoning Board shall consider the conceptual plan and master development agreement, no later than sixty (60) working days after the application has been determined complete, at a regularly scheduled meeting to determine if the application meets the requirements of this Code. Upon consideration of the staff and public comments, the Board shall take any of the following actions:

- a. Recommend that the application be denied.
- b. Recommend that the application be approved.
- c. Recommend that the application be approved with conditions.

2. *City Council Approval.* The city council shall consider the conceptual plan and master development agreement at a regularly scheduled meeting, no later than thirty (30) working days after the Planning and Zoning Board has heard the rezoning application, and determine if the application meets the requirements of this Code. Upon consideration of the comments of City staff and public, and the recommendation of the Planning and Zoning Board, the City Council shall take any of the following actions:

- a. Table the consideration of the application to allow for the resolution of outstanding issues.
- b. Deny the application.
- c. Remand the application back to the planning and Zoning Board.
- d. Approve the application.
- e. Approve the application with conditions.

3. *Execution of Master Development Agreement.* The second reading of the ordinance for rezoning of any land to the PUD district shall not take place until the developer has provided an executed copy of the master development agreement to the city clerk. The

document shall be a fully corrected copy which addresses all issues discussed prior to the scheduled second reading and is fully executed by the applicant in a form approved by the City Attorney. The document shall also include reduced copies of the revised conceptual plan exhibits. If there are no additional requirements, corrections or conditions attached by the city council at the second reading, the executed document shall be signed by the city Attorney, City clerk and mayor and forwarded to the Clerk of Circuit Court for recording in the Official Records of the County (Land Records). If there are additional requirements, corrections or conditions attached by the city council at the second reading, the applicant shall revise the agreement and conceptual plan and return the documents to the city clerk within thirty (30) days for execution and recording. The requirement to return the document within thirty (30) days shall be deemed specified by the city council as a condition for approval of the rezoning and the failure to resubmit in a timely manner shall cause the approval action to lapse and be of no effect.

4. *Failure to Provide Timely Resubmission.* Failure to meet any of the resubmission deadlines cited above shall require the filing of a new application, including the appropriate review fees.

5. *Extension of Resubmittal Deadlines.* The City Manager, or designee, may extend the deadlines cited above, when warranted by unforeseeable events. A request for extension shall be filed in writing with the City explaining the circumstances justifying the extension.

6. *Final Site Development Plan Approval.* Unless otherwise noted within the development agreement, final site development plan approval for subdivisions or site plans within the PUD shall be required in accordance with the general procedures established by this Code.

7. *Expiration of Master Development Agreement.* Any master development agreement executed and recorded after the adoption of this development code shall be required to include an expiration date or series of expiration dates tied to specific improvements or phases. Such date(s) shall be determined based upon the size of the project, the installation of physical improvements, and any other factors pertinent to the specific proposal. If the city should determine that the developer has failed to satisfy the requirements necessary to avert expiration, the development agreement shall be considered null and void, and approval of any additional final development plans for the PUD shall not be permitted without resubmission and approval of a new development agreement in accordance with the procedures established in this Code.

8. *Amendments to the Master Development Agreement and/or Conceptual Development Plan.* Subsequent to execution and recording, the master development agreement and/or conceptual development plan may be amended at any time upon mutual agreement of both the city and the appropriate amending party, unless otherwise provided in the agreement. Application for amendment of the master development agreement and/or conceptual development plan shall be made to the department utilizing the form provided by the department for that purpose and accompanied by the appropriate review fee. Initial application shall be accompanied by a number of copies of the proposed amendment as may be required by the City. Upon receipt of the application by the City, the amendment shall be placed on the agenda of the planning and Zoning Board. Subsequent to action by the planning and Zoning Board, final review and approval shall be required by the city council.

9. *Violation of Master Development Agreement or Amendment.* It is a violation of this code for any person to violate or to refuse or fail to comply with any provision of a development agreement or an amendment to such agreement. The City may take any and all actions that it may deem appropriate under controlling law to enforce the provisions of any development agreement or this Code.

14-32.1.17. *Architecture Design and Review in the Town Center.*

All development and redevelopment of properties or structures in this district ~~the Daytona Beach Shores Town Center as designated in the City's Comprehensive Plan~~ shall be subject to the applicable provisions of chapter 8, article III, entitled "~~Town Center Mixed Use Planned Unit Development.~~"

14-33. – 14-48.10.

14-48.11. Specialized Off-Street Parking Requirements in Redevelopment Districts.

Off-street parking in the ~~TC-MUPUDE Town Center~~ Mixed Use Planned Unit Development East District shall be approved through the MUPUD agreement.

Off-street parking and loading space in the ~~TC-MUPUDW~~ Mixed Use Planned Unit Development West District shall be provided as follows:

One (1) private parking space per multifamily residential, timeshare ~~(condominium)~~ or hotel/motel unit shall be provided within the boundary of the PUD ~~on the nonpublic parking area.~~

~~One half (1/2) parking space per condominium or hotel/motel unit shall be provided by the Town Center Parking Facility.~~

Other uses: One (1) parking space per three hundred (300) net square feet. ~~However, the applicant may count as many nonobligated spaces in Town Center Parking Facility as requested and approved in the PUD Agreement.~~

Off-street parking in the ~~RMF-RD Residential Multifamily Redevelopment District, TOR-RD Tourist Oriented Residential Redevelopment District, and GC-RD General Commercial-Redevelopment District,~~ shall be governed by the existing rules and regulations for parking in section 14-48 with the exception of the additional guidelines:

14-48.11.1.

Reserved.

14-48.11.2. *Parking as a Principal Use.* No lot or part of a lot may be used as parking only, unless said parking is ~~public parking as designated and owned by the City of Daytona Beach Shores.~~ approved by the City Council pursuant to Section 14-58.1.2. A. 8. of this Land Development Code.

14-48.11.3. *Parking as an Accessory Use.* Notwithstanding section 14-48.11.2, parking shall be permitted only as an accessory use to a principal use.

14-48.11.4. *Parking Garages.* A parking garage may be constructed as an accessory use to a permitted principal use; however said garage may not have parking on the ground floor. The ground floor shall be used only as a permitted principal use for the district in which they exist.

14-48.11.5. *Unpaved Parking in the GC-RD District.* Unpaved parking shall only be allowed in the GC-RD District when approved by City of Daytona Beach Shores City Council, pursuant to section 14-58, for a period not to exceed three hundred sixty-five (365) consecutive days and accompanied by a post-reclamation plan. Unpaved parking in all other redevelopment districts is prohibited.

14-48.11.6. *Combined Parking.* One-half the required off-street parking may be permitted for principal uses within a shopping plaza when the Building Official determines that competent evidence exists demonstrating that the principal uses on the property are not in use within the same time period during which the other use or uses for which the parking will be required. Such approval shall be memorialized in a development order.

14-49. – 14-82.

SECTION FOUR: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to the land development regulation and the City’s Community Redevelopment Area 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 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 _____, 2014.

Adopted on second reading this _____ day of _____, 2014.