

ORDINANCE 2015-02

A CODIFICATION ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA PERTAINING TO THE CODIFICATION OF THE *DAYTONA BEACH SHORES CITY CODE/CODE OF ORDINANCES/LAND DEVELOPMENT CODE* (COLLECTIVELY THE *CITY CODE*); PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR CODIFICATION OF DOCUMENT PREPARED BY THE MUNICIPAL CODE CORPORATION AND UN-CODIFIED ORDINANCES AS THE *CITY CODE*; AMENDING SECTION 1-6 OF THE CITY CODE RELATING CITY CODE AMENDMENTS; PROVIDING FOR ADMINISTRATIVE ACTIONS RELATING TO EDITING OF THE *CITY CODE* AND THE FUTURE REVISION OF THE *CITY CODE*; PROVIDING FOR ACTIONS PERTAINING TO AN ONGOING CODIFICATION PROGRAM BY THE CITY; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS AND RESPONSIBILITY FOR IMPLEMENTATION; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Daytona Beach Shores engaged the Municipal Code Corporation (the "MCC") to codify the ordinances enacted by the City Council into the *Daytona Beach Shores City Code/Code of Ordinances/ Land Development Code of the City of Daytona Beach Shores* and the City maintains, as its own program, the City's *Comprehensive Plan* (collectively the "*City Code*"); and

WHEREAS, the City Council recognizes that the work of *City Code* codification and revision is an ongoing process that requires a continuing effort by the various City officials and City staff and it is the goal of the City Council to ensure that the *City Code* is kept current and of maximum use and clarity for the benefit of the citizens of the City of Daytona Beach Shores; and

WHEREAS, the following provisions of the *City Code* relate to the ongoing review, revision and maintenance of the *City Code*:

Sec. 1-6. - Amendments to Code.

All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any way affect this Code of Ordinances may be numbered in accordance with the numbering system of this Code and printed for inclusion therein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby, and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the City Council.

...

Sec. 1-7. - Altering Code.

It shall be unlawful for any person, firm or corporation in the city to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Daytona Beach Shores to be misrepresented thereby.

; and

WHEREAS, it is the intent of the City Council of the City of Daytona Beach Shores to take administratively prudent actions by re-codifying the *City Code* from time-to-time; and

WHEREAS, it is the intent of the City Council of the City of Daytona Beach Shores to implement the provisions of Section 2-19 of the *City Charter of the City of Daytona Beach Shores* and other applicable law; and

WHEREAS, additionally, the City Council of the City of Daytona Beach Shores may act in accordance with the provisions of Article VIII, Section 2(b) of the *Constitution of the State of Florida*, which provides, in pertinent part, that “[m]unicipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except

as otherwise provided by law”; and

WHEREAS, additionally, the City Council of the City of Daytona Beach Shores may act in accordance with the provisions of Section 166.021(1), *Florida Statutes*, which provides, in pertinent part, that “[a]s provided in S. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law”; and

WHEREAS, additionally, the City Council of the City of Daytona Beach Shores may act in accordance with the provisions of Section 166.021(3), *Florida Statutes*, which provides, in pertinent part, that “[t]he Legislature recognizes that pursuant to the grant of power set forth in S. 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state legislature may act” except for certain very limited matters; and

WHEREAS, this Ordinance is enacted under the general home rule, police powers, land development regulatory and land use planning powers of the City of Daytona Beach Shores; and

WHEREAS, the City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing, noticing and advertising this Ordinance; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~striketrough~~ 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: LEGISLATIVE FINDINGS AND INTENT.

(a). The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the City staff report and City Council agenda memorandum relating to this Ordinance.

(b). The City Council of the City of Daytona Beach Shores hereby reaffirms its commitment to being a government that operates “in the Sunshine” for the benefit of its citizens and the general public and desires to ensure that the codes and ordinances of the City are widely available to the citizens of the City as well as those engaged in business and activities with the City.

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

SECTION TWO: RE-CODIFICATION OF CITY CODES AND ORDINANCES.

The City Council of the City of Daytona Beach Shores, Florida, hereby adopts, enacts and ratifies the provisions set forth in codified documents of the *City Code* as set forth at the present time on the Web site of the MCC, the current un-codified (but to be codified) ordinances of the City, and the published document that is entitled the *City of Daytona Beach Shores Comprehensive Plan*, all of which shall be, as a result of the enactment of this Ordinance, be re-codified as the *City Code*.

SECTION THREE: AMENDMENT TO SECTION 1-6. Section 1-6 of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* is amended to read as follows:

Sec. 1-6. - Amendments to Code.

All ordinances ~~passed subsequent to this Code of Ordinances~~ which amend, repeal or in any way affect this Code of Ordinances may be numbered in accordance with the numbering system of this

Code and printed for inclusion therein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby, and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the City Council.

~~Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in substantially the following language: "That section _____ of the Code of Ordinances of the City of Daytona Beach Shores is hereby amended to read as follows:" The new provisions may then be set out in full as desired.~~

~~In the event a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances of the City of Daytona Beach Shores is hereby amended by adding a section (or article or chapter) to be numbered as follows ..., which said section shall read as follows:" The new section may then be set out in full as desired.~~

~~When the city council desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the Code, which said board desires to incorporate into the Code, a section in substantially the following language may be made a part of the ordinance: "Section _____. It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Daytona Beach Shores, and the sections of this ordinance may be renumbered to accomplish such intention."~~

All sections, articles, chapters or provisions of this Code desired to be repealed should be specifically repealed by section number or chapter number, as the case may be.

SECTION FOUR: NEW SECTION RELATING TO CODIFICATION. A new Section of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* is added to read as follows:

Code Codification; Duties.

(a). The City Council hereby directs the City Clerk and the City Attorney, in conjunction with the City Manager, to undertake a recurring and consistent Code of Ordinances of the City of Daytona Beach Shores (City Code) and the Land Development Code of the City of Daytona Beach Shores (LDC) review and analysis to minimize consultant costs and maximize the usability, currency and accuracy of the City Code and LDC on an ongoing basis.

(b). The City Clerk and the City Attorney, in conjunction with the City Manager, are hereby delegated the authority to make purely editorial and formatting revisions to the City Code and LDC such as assignments of City Code and LDC provisions to appropriate parts, articles, sections, etc.; gender changes and neutralization; changes in format; the deletion of conflicting provisions pursuant to the provisions of ordinance enactments by the City Council; deletion of provisions preempted by actions of the Florida Legislature or other controlling legal authority; and such other actions as may be necessary and desirable consistent with the overriding legislative authority of the City Council with regard to the provisions of the City Code and LDC.

(c). The City Clerk and the City Attorney, in conjunction with the City Manager, are hereby assigned the duty and responsibility to present City Code reviser's ordinances to the City Council on a recurring basis to ensure that the City Code and LDC are maintained in an orderly and contemporaneous form, to implement an ongoing codification process, and to make such reports to

the City Council as may be necessary and desirable.

(d). It is the intent of the City Council that the City Clerk and the City Attorney, in conjunction with the City Manager, ensure that all provisions of the City Code and LDC are modified, as needed from time to time, to ensure sound and functional operational effectiveness of the City Code and LDC and the maximum possible usability by citizens of the city and other users of the City Code and LDC.

(e). The City Clerk and the City Attorney, in conjunction with the City Manager, are hereby authorized to delete from and insert into the City Code and LDC such editor's notes and comments as may be necessary and desirable.

(f). The City Clerk and the City Attorney, in conjunction with the City Manager, are hereby authorized to develop the City Code, the LDC and the Comprehensive Plan into such volumes as may be necessary and desirable and to take all necessary and appropriate actions to enhance the availability of the City Code and LDC.

SECTION FIVE: IMPLEMENTING ADMINISTRATIVE ACTIONS.

The City Manager, City Clerk and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to bring into effect the provisions of this Ordinance as such Charter officials may deem appropriate in their respective roles and functions under the *City Charter*.

SECTION SIX: SAVINGS; EFFECT OF ORDINANCE.

The prior actions of the City of Daytona Beach Shores relating to the enactment of codes and ordinances, the codification of codes and ordinances, the publishing of codes and ordinances and the codification of codes and ordinances, as well as any and all related matters and processes and

procedures of the City pertaining thereto, are hereby ratified and affirmed. To that end, this Ordinance shall also be deemed to be a curative ordinance in the event of any technical issue pertaining to the enactment of any code or ordinance of the City.

SECTION SEVEN: CODIFICATION; SCRIVENER'S ERRORS.

(a). The provisions of this Ordinance shall not be codified except for Section Four; provided, however, that the codification actions set forth herein shall be implemented and Section 1-6 of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* shall be amended as set forth herein.

(b). Regardless of whether this Ordinance is ever codified, the division and provisions of this Ordinance may be renumbered or relettered.

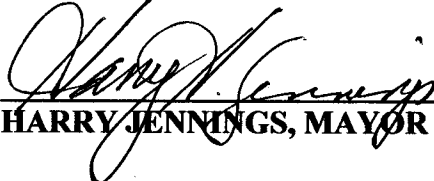
(c). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

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

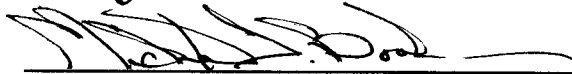
SECTION NINE: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION TEN: 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 27 day of JAN, 2015.

Adopted on second reading this 10 day of Feb, 2015.