

ORDINANCE 2017-01

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO BEACH CONCESSION PARKING ANCILLARY FACILITY SPECIAL EXCEPTION USE; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G”, CHAPTER 2 ENTITLED “DEFINITIONS;” AMENDING CHAPTER 14 ENTITLED “ZONING REGULATIONS,” BY AMENDING SECTION 14-58 ENTITLED “SPECIAL EXCEPTIONS AND CONDITIONAL USES” TO PERMIT THE BEACH CONCESSION PARKING ANCILLARY FACILITIES AS A CONDITIONAL USE IN THE “GC-RD” GENERAL COMMERCIAL-REDEVELOPMENT DISTRICT; PROVIDING FOR DEFINITIONS; PROVIDING FOR DEVELOPMENT STANDARDS AND CONDITIONS; PROVIDING FOR PROHIBITIONS, ENFORCEMENT AND PENALTIES; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; 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, a beach concession parking ancillary facility as a principal use may contribute to the economic vitality of beach concession businesses and the City of Daytona Beach Shores if permitted by means of a special exception for a limited time period; and

WHEREAS, a beach concession parking ancillary facility as a principal use is currently prohibited within the City limits of the City of Daytona Beach Shores; and

WHEREAS, the current economic state of the region dictates a multi-option set of development regulations to ensure the full economic capacity of the City of Daytona Beach Shores is realized and that the citizens of visitors of the City are benefited thereby; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds it is in the best interests and welfare of the citizens and businesses of the City to enact this ordinance permitting and regulating a beach concession parking ancillary facility in the “GC” General Commercial District; 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, the recitals to this Ordinance (whereas clauses) are adopted as the legislative findings and intent of the City Council of the City of Daytona Beach Shores; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

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

SECTION ONE: Section 2-2, *Land Development Code*, Chapter 2, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “General Definitions,” is amended to read as follows:

Sec. 2-2. General Definitions

2-2. General Definitions

Concession Parking Ancillary Facility: An enclosed building used to provide ancillary support of bona fide concession vehicles permitted to park onsite. This facility may contain subordinate uses including, but not limited to, office, non-hazardous dry storage and minor concession vehicle maintenance and repair. Food preparation and cooking are prohibited, however, ice machines, freezers and other appliances supporting bona fide concession vehicles permitted to park onsite are permitted.

SECTION TWO: Section 14-58, *Land Development Code*, Chapter 14, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Special exceptions and Conditional Uses,” is amended to read as follows:

Sec. 14-58. Special exceptions and Conditional uses

14-58.1.2. Special Exceptions permitted in all Districts.

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

4. Concession Parking Ancillary Facility. To provide for the sound development of concession parking ancillary facilities, as defined in App. G, section 2-2 of this Code, such land use may be permitted only upon a development order being approved granting a special exception in the GC-RD zoning district subject to the following development standards:

a. Location.

(1) Concession parking ancillary facilities shall only be permitted on properties with at least two (2) street frontages and vehicular access points.

(2) Concession parking ancillary facilities shall not be permitted within 5,280 feet of an existing concession parking ancillary facility site.

(3) Concession parking ancillary facilities shall only be permitted within a shopping plaza.

(4) Concession parking ancillary facilities shall only be permitted on a site where authorized beach concession parking exists at the time of adoption of this ordinance.

b. Property dimensions and size.

(1) Property shall have a minimum of three hundred (300) feet of frontage along SR A1A.

(2) Minimum area of shopping plaza property shall be one hundred thousand (100,000) square feet.

c. Orientation.

(1) The principal building, service and maintenance areas shall not be oriented toward residential districts or visible from SR A1A.

(2) Primary building entry shall not front SR A1A.

(3) Concession vehicular entrance shall not be from SR AIA.

d. Permits and Protection Required.

(1) All appliances, equipment, structures and supporting infrastructure on site, including those in the concession parking area and inside the principal building, shall be permitted and successfully inspected prior to the first quarterly inspection outlined in “subsection n” of this code.

(2) Any new appliance, equipment or structure shall be permitted prior to installation.

(3) All devices, appurtenances, appliances and apparatus intended to serve some special function, such as sterilization, distillation, processing, cooling, or storage of ice or foods, and that discharge to the drainage system, shall be provided with protection against backflow, flooding, fouling, contamination and stoppage of the drain. Bathroom vanity sinks are exempt for this provision.

e. Vehicle Concession Parking.

(1) Concession parking shall be restricted to the existing area permitted prior to the approval of the ancillary facility as depicted in the beach concession parking ancillary facility special exception development order.

(2) All concession vehicles parked onsite shall maintain current vehicle registration with the Florida Department of Motor Vehicles. Tags shall also be prominently displayed on all vehicles.

(3) All concession vehicles parked onsite shall maintain a current Mobile Food Dispensing Vehicle License with the Florida Department of Business and Professional Regulation’s Division of Hotels and Restaurants.

(4) The parking, standing and/or storage of any vehicle failing to satisfy subsection “2” or “3” above is prohibited in the beach concession parking area.

f. Maintenance of Structures.

(1) The principal structure and accessory structures on the property, including those located in the concession parking area, such as, but not limited to, fences, walls and dumpster enclosures, shall be opaque, structurally sound and well maintained pursuant to section 14-52.9 of this code.

(2) All new accessory structures shall be consistent with the approved architectural treatment and style of the principal building to create a uniform architectural style and appearance as determined by the Building Official, based upon sound and generally accepted land use planning practices and principles. The burden of proof shall be on the property owner to meet this requirement.

g. Vehicular Maintenance and Repair.

- (1) Vehicular lifts and ramps are prohibited.
- (2) Major equipment and vehicular repair, as determined by the Building Official, including, but not limited to, body work and engine repair, are prohibited.
- (3) Vehicular maintenance shall not be visible from any public right-of-way.
- (4) Maintenance equipment including, but not limited to, air pumps and vacuums, shall be located outside the required yard setbacks.

h. Signage.

- (1) Signage on or through the windows of the principal building shall be prohibited.
- (2) Banners on the principal building shall be prohibited.

i. Outdoor Displays, Storage, Equipment and Supplies

- (1) Outdoor displays and storage are prohibited.
- (2) All portable equipment, merchandise, vehicle maintenance supplies, etc. shall be stored in a safe and orderly manner entirely inside the principal structure.

l. Fuel Storage and Sale

- (1) Existing outdoor fuel storage tanks containing fuel used solely for offsite beach concession cooking and which are approved by the State of Florida and City shall be permitted to remain aboveground and maintained according to controlling law.
- (2) New outdoor fuel storage tanks containing fuel used solely for offsite beach concession cooking shall be underground and permitted by the State of Florida and City.
- (3) The distribution of offsite beach concession cooking fuel shall be limited solely to bona fide concession vehicles, which utilize the site year round for overnight parking.
- (4) Outdoor storage and or sale of petrol fuel used for transportation is prohibited.
- (5) Indoor storage of fuel of any kind, including those in portable containers, is prohibited.

j. Lighting.

- (1) Neon lighting on buildings and structures is prohibited.
- (2) All lighting shall conform to the Volusia County sea turtle lighting standards.
- (3) Glare and direct lighting shall not project into any right-of-way or residential district.

k. Duration of Special Exception.

- (1) A special exception permitting a concession parking ancillary facility may be approved by the City Council for a period up to one (1) year. Thereafter, the special exception shall automatically terminate unless the special exception is extended by the

City Council at least sixty (60) days prior to termination of the development order. Extensions may be granted for a maximum of up to one (1) year and must be requested in writing to the City Manager at least ninety (90) days prior to termination of the development order. No more than five (5) total extensions shall be granted.

l. Hours of operation.

(1) Loading and unloading shall be restricted to no more than one (1) hour prior to sunrise and no more than (1) hour after sunset.

(2) All other external activities and uses including, but not limited to, repair and maintenance, shall be limited to the construction hours prescribed in Sec. 16-53 of the Daytona Beach Shores Code of Ordinances.

m. Current Business Tax Receipt and Certificate of Use.

(1) All facilities shall maintain an active and current business tax receipt and certificate of use pursuant to the City's Code of Ordinances and Land Development Code.

n. Quarterly Inspections and Termination of Development Order.

(1) All facilities shall be inspected quarterly by the Building Official, or his designee, for consistency with this code and the approved development order. Any violation of this ordinance or the approved development order shall be remedied by the property owner within 30 days of being notified in writing by the Building Official. Failure to remedy violations as prescribed by this code shall render the development order null and void resulting in immediate termination.

(2) The Building Official may also conduct random inspections of facilities, provided at least twenty-four (24) hours notice is provided to the property owner or certificate of use holder. This inspection may be performed by the Building Official, or his designee, for consistency with this code and the approved development order. Any violation of this ordinance or the approved development order shall be remedied by the property owner within 30 days of being notified in writing by the Building Official. Failure to remedy violations as prescribed by this code shall render the development order null and void resulting in immediate termination.

SECTION THREE: ENFORCEMENT AND PENALTIES.

(a). It is prohibited and unlawful for any person to fail to comply with the requirements of this Ordinance.

(b). The City may enforce the provisions of this Ordinance by any lawful means available to the City under the controlling provisions of State law.

(c). The penalties for violation of this Ordinance shall be as set forth in the code enforcement method asserted by the City under the *Code of Ordinances of the City of Daytona Beach Shores, Florida* or as may be available under the controlling provisions of State law.

SECTION FOUR: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to the regulation of rental and sales of light recreational vehicles and/or beach equipment land uses are hereby ratified and affirmed.

SECTION FIVE: CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections Three, Four, Five, Six, Seven and Eight shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

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

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

SECTION EIGHT: EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

HARRY JENNINGS, MAYOR

MICHAEL T. BOOKER, CITY MANAGER
Approved as to form and legality:

CHERI SCHWAB, CITY CLERK

LONNIE GROOT, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2017.

Adopted on second reading this _____ day of _____, 2017.