

**ORDINANCE 2017-08**

**AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO BOAT HOUSES; AMENDING THE MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE; AMENDING APPENDIX “G”, AMENDING CHAPTER 14 ENTITLED “ZONING REGULATIONS,” BY AMENDING SECTION 14-37 ENTITLED “BOAT DOCKS AND BOAT HOUSES” TO INCREASE THE MAXIMUM PERMITTED HEIGHT OF BOAT HOUSES; PROVIDING FOR 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**, the boat houses offer protection, security and convenience in storing and launching recreational watercrafts; and

**WHEREAS**, the average maximum allowed boat house height permitted in east Volusia jurisdictions is fifteen (15) feet above the water level at mean high tide; and

**WHEREAS**, the City of Daytona Beach Shores is maximum allowed boat house height permitted is twelve (12) feet above the water level at mean high tide; and

**WHEREAS**, on August 8, 2017 the City Council of the City of Daytona Beach Shores approved a maximum allowed boat house height of eighteen (18) feet above the water level at mean high tide by passing this ordinance on first reading; and

**WHEREAS**, the boat docks and boat houses regulations of the *City of Daytona Beach Shores Land Development Code* were adopted in 1993; and

**WHEREAS**, the size and height of recreational boats have increased over time requiring larger boat houses; and

**WHEREAS,** the City Council of the City of Daytona Beach Shores finds that it is in the best interests and welfare of the citizens of the City to enact this Ordinance allowing a nominal increase in the maximum allowed boat house height permitted; 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 protects the City against assertions and applications that would violate the City's land use constitution; 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 14-37, *Land Development Code*, Chapter 14, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Boat Docks and Boat Houses,” is amended to read as follows:

**Sec. 14-37. – Boat docks and boat houses.**

The following regulations shall apply in all zoning districts:

1. No boat house, shelter or other similar enclosed structure extending into any waterway shall have more than a four hundred (400) square foot area. The roof of such structure at its highest point shall not be more than ~~twelve (12)~~ eighteen (18) feet above the water level at mean high tide.
2. No more than one (1) boat house, shelter or other similar structure shall be permitted for each residence located on waterfront property.
3. No boat house, shelter or other similar structure shall be used for dwelling purposes nor contain any sleeping or living quarters.
4. Boat docks, boat houses or other similar structures may be constructed channelward of the bulkhead lines provided they are constructed in accordance with the zoning regulations and other applicable county, state and federal regulations.

**SECTION TWO: ENFORCEMENT, PENALTIES AND APPEALS.**

(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 and Section 1.8 of the *Code of Ordinances of the City of Daytona Beach Shores, Florida*.

(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 THREE: SAVINGS.** The prior actions of the City of Daytona Beach Shores relating to the regulation of the matters and uses which are the subject of this Ordinance are hereby ratified and affirmed.

**SECTION FOUR: 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 Two, Three, Four, Five, Six and Seven shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance. The legislative intent set forth in the recitals to this Ordinance shall be codified.

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

**SECTION SIX: 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 SEVEN: EFFECTIVE DATE.** This Ordinance shall take effect immediately upon enactment.

**CITY OF DAYTONA BEACH SHORES, FLORIDA**

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**HARRY JENNINGS, MAYOR**

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**MICHAEL T. BOOKER, CITY MANAGER**

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**CHERI SCHWAB, CITY CLERK**

**Approved as to form and legality:**

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**LONNIE GROOT, CITY ATTORNEY**

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.