

ORDINANCE 2018-01

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA REPEALING CHAPTER 16¼ OF THE CODE OF ORDINANCES OF THE CITY OF DAYTONA BEACH SHORES; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS AND INTENT; PROVIDING FOR REGULATION OF THE CITY'S PARKS AND RELATED FACILITIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, DIRECTIONS TO THE CODE CODIFIER AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 2.11 of the *City Charter of the City of Daytona Beach Shores* provides for the general powers and duties of the City Council and states as follows:

All powers of the City shall be vested in the City Council except as otherwise provided by law and this charter. The City Council shall be responsible for the reasonable exercise of those powers, and shall be required to provide for the performance of all duties and obligations imposed on the City by law.

; and

WHEREAS, Section 3.01 of the *City Charter of the City of Daytona Beach Shores* provides for the establishment of the office of City Manager and states as follows:

There shall be a City Manager who shall be the chief administrative officer of the City. The Manager shall be responsible to the City Council for the administration of all affairs of the City.

; and

WHEREAS, Section 3.09 of the *City Charter of the City of Daytona Beach Shores* provides for a City Administrative Code and states as follows:

The City Manager shall propose and the City Council shall amend and adopt, by a vote of four-fifths of the full Council an administrative code which shall set forth

the departmental organization for the City government, including charts showing the chain of command and the allocation of responsibilities and duties, definitions of the nature and scope of each department, and all required rules and procedures for operating said departments.

; and

WHEREAS, the City Council finds that this Ordinance is consistent with the provisions of Section 2.18 (d) (2) of the *City Charter of the City of Daytona Beach Shores*; and

WHEREAS, sound public management practices and principles are best applied by ensuring that administrative rules and processes are flexible and able to be adjusted and modified as needs arise or circumstances change in order to best serve the public interest; and

WHEREAS, sound public management practices and principles and fiscal prudence are best implemented by providing for changes in administrative matters by means of the adoption of resolutions by the City Council and the promulgation of rules by the City Manager in accordance with the provisions of the *City Charter* and controlling State law as opposed to the costly process of enacting ordinances; and

WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of Daytona Beach Shores as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*; Chapter 166, *Florida Statutes*, and other applicable controlling law to include, but not be limited to, the *City Charter*.

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

SECTION ONE: LEGISLATIVE AND ADMINISTRATIVE FINDINGS AND INTENT.

(a). The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) set forth herein as the legislative

and administrative findings and intent of the City Council.

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

SECTION TWO. REPEAL OF CHAPTER 16¼ OF THE CITY CODE.

Chapter 16¼ of the *Code of Ordinances of the City of Daytona Beach Shores* is hereby repealed.

SECTION THREE: SAVINGS; EFFECT OF ORDINANCE.

The prior actions of the City of Daytona Beach Shores in terms of the matters relating to the regulation of parks and recreation matters, such as, but not limited to the implementation of Chapter 16¼ of the *Code of Ordinances of the City of Daytona Beach Shores*, as well as any and all actions of the City pertaining thereto, to include any and all related matters and processes and procedures of the City of an associated nature with regard to the City's parks and related facilities, are hereby ratified and affirmed.

SECTION FOUR: PARKS AND RELATED FACILITIES RULES AND REGULATIONS.

A new Section of the *Code of Ordinances of the City of Daytona Beach Shores* is added to read as follows:

(a). The City Manager shall prepare and present to the City Council administrative rules, processes and procedures such as are determined to be necessary and appropriate in order to adequately regulate the City's parks and related facilities. The City Council may adopt administrative rules, processes and procedures by means of the approval of resolutions from time-to-time in order to address the needs of the City.

(b). The City Council may delegate to the City Manager the authority to adopt rules relating to the regulation of the City's parks and related facilities and the City Manager shall have the day-to-day administrative and regulatory authority over the City's parks and related

facilities.

(c). The intent and purpose of this Section is be consistent with the provisions of Section 2.18 (d) (2) of the *City Charter of the City of Daytona Beach Shores*.

(d). The provisions of Section Sec. 1-8 of the City Code relating to general penalties and other matters with regard to violations of the City's codes and ordinances shall be applicable to violations of the rules adopted under this Ordinance.

SECTION FIVE: CODIFICATION; SCRIVENER'S ERRORS.

(a). The provisions of this Ordinance Section Four of this Ordinance shall be codified in the *Code of Ordinances of the City of Daytona Beach Shores* and all other sections shall not be codified; provided, however, that the Code codifier shall take all actions necessary to implement the provisions of this Ordinance.

(b). The sections, divisions and provisions of this Ordinance may be renumbered or relettered as deemed appropriate by the Code codifier.

(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 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 _____, 2018.

Adopted on second reading this __ day of _____, 2018.