

ORDINANCE 2020-08

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA RELATING TO CONDUCT OF MAYOR AND COUNCIL MEMBERS WHEN COMMUNICATING WITH OTHERS ON A SUBJECT THAT MAY BE OF INTEREST TO THE CITY; MAKING FINDINGS; PROVIDING FOR CONFLICTS, SEVERABILITY; CODIFICATION AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Daytona Beach Shores (“City Council”) is the elected collegial body that is the legislative arm of the City of Daytona Beach Shores (“City”); and

WHEREAS, except as specifically set forth in the Charter or Ordinances of the City, no actions should be taken by the Mayor or any member of the City Council on behalf of the City unless approved by no less than a majority of the City Council members; and

WHEREAS, the Mayor and the individual members of the City Council retain their first amendment rights while holding the offices of Mayor or City Council member; provided, however, such rights can be subject to certain duties of disclosure to prevent issues that could cause confusion to third parties as to what matters expressed by the Mayor or City Council member are personal in viewpoint, versus other matters that are being expressed on behalf of the City and City Council; and

WHEREAS, in a community as small as Daytona Beach Shores, the status of the Mayor and City Council members as public officials is often known to members of the public, and the communication of personal views of the Mayor or City Council member may be misunderstood by persons receiving the communications to represent an official expression of the City and City Council even if the Mayor or City Council member does not identify himself or herself as the Mayor or a City Council member; and

WHEREAS, the City Council finds it to be in the best interests of the City and its residents, and necessary to protect the health, safety and welfare of the community, for this Ordinance to be adopted.

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

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

SECTION ONE: LEGISLATIVE FINDINGS AND INTENT.

The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance, and finds that same reflect the legislative intent of this Ordinance, and the same are hereby adopted, ratified and affirmed.

SECTION TWO: ADOPTION.

The City Council of the City of Daytona Beach Shores hereby amends the *Code of Ordinances of the City of Daytona Beach Shores*, Chapter 2, entitled “Administration,” Article I, entitled “In General”, by creating a new Section 2-1.4, to be entitled “Conduct of mayor and council members when communicating with others” as follows:

CHAPTER 2 – ADMINISTRATION

ARTICLE I – IN GENERAL

Sec. 2-1.4. – Conduct of mayor and council members when communicating with others.

- (a) The Mayor and each individual Council Member shall have the right to communicate with any person or group as an individual about any matters whatsoever; provided, however, the following restrictions shall apply when communicating on a subject that may be of interest to the City when such communication is not taking place at a noticed City Council meeting. The Mayor or City Council Member must communicate clearly whether or not he/she is communicating on behalf of the City or City Council. Neither the Mayor, nor any City Council member, may indicate that he/she is communicating on behalf of the City or City Council unless a specific vote has been taken and passed by at least a majority of the City Council members present at the meeting authorizing the Mayor and/or a specific City Council member(s) to make such communication, unless such communication is specifically permitted under the Charter or Ordinances of the City of Daytona Beach Shores. If the Mayor or City Council member is communicating without the specific authorization of the City Council as provided herein, the Mayor or City Council member must specifically disclose that his/her opinions expressed are solely his/her personal opinions, and do not necessarily reflect the opinions of the City or the City Council.

- (b) Violations of this Section shall be deemed malfeasance in office.

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

SECTION FIVE: CODIFICATION. Section Two of this ordinance shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and 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. The Code codifier is granted liberal authority to codify the provisions of this Ordinance to be consistent with the other sections of the *Code of Ordinances*.

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

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

GRETCHEN R. H. "BECKY" VOSE, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2020.

Adopted on second reading this _____ day of _____, 2020.
