

## ORDINANCE 2013 -07

**AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO THE RENTAL AND SALES OF LIGHT RECREATIONAL VEHICLES AND THE RENTAL OF BEACH EQUIPMENT CONDITIONAL 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 RENTAL AND SALES OF LIGHT RECREATIONAL VEHICLES AND THE RENTAL OF BEACH EQUIPMENT 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**, the rental and sales of light recreational vehicles and beach equipment as a principal use may contribute to the economic vitality of businesses and the City of Daytona Beach Shores if conditionally permitted; and

**WHEREAS**, the rental and sales of light recreational vehicles and beach equipment as a principal use are currently prohibited within the City limits of the City of Daytona Beach Shores; and

**WHEREAS**, the City Council of the City of Daytona Beach Shores has directed staff to develop regulations that permit the rental and sale of light recreational vehicles and beach equipment; 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 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 the rental and sales of light recreational vehicles and beach equipment 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 of 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**

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*Beach Rental Equipment:* means an individual piece or group of equipment, tools or non-motorized vehicles customarily used for recreation on a beach or in water sports. Beach rental equipment shall be limited to the following type of equipment: surf, body and paddle boards; bicycles; metal detectors and any other ancillary equipment associated with those specific types of equipment.

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*Light recreational vehicle:* means a vehicle utilized for recreational transport which is not otherwise prohibited by the City for use. Light recreation vehicles shall be limited to the following types of motor vehicles: scooters and low speed vehicles as defined in Section

316.2068, *Florida Statutes* and permitted in Section 316.2122, *Florida Statutes*. Light recreation motor vehicles must be street legal (meaning that they must fall within the definition of the term “motor vehicle,” as defined in Section 320.01, *Florida Statutes*). In addition, light recreation vehicles shall also include and be limited to the Electric Personal Assistive Mobility Devices (as defined in Section 316.2068, *Florida Statutes*) that are the type commonly known as a “Segway®.”

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**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**

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**Sec. 14-58.2.1 Conditional Uses Permitted.**

The following uses are permitted as conditional uses subject to the provisions of this Code.

**14-58.2.1.A. Outdoor Dining.**

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**14-58.2.1.C. Rental and sales of light recreational vehicles and/or beach equipment.**

Any conditional use permit issued for rental and sales of light recreational vehicles and/or beach equipment shall be subject to the following criteria:

1. City Council Approval
  - a. Subsequent to a recommendation from the Planning and Zoning Board, the City Council shall review and decide on all conditional use applications concerning the rental and sales of light recreational vehicles and/or beach equipment.
  - b. Approvals shall be implemented by means of a development order in a form issued by the City.
  - c. Denials shall be implemented by a denial development order consistent with the provisions of Section 166.033, *Florida Statutes*, and other controlling law.
2. General Requirements
  - a. All businesses proposing the rental and sales of light recreational vehicles and/or beach equipment must be awarded a business tax receipt and a

Certificate of Use Permit by the City and must maintain such matters in current and good status.

3. Facility Requirements

- a. Facilities shall comply with the *Florida Building Code* and *National Fire Prevention Act* requirements.
- b. Facilities renting or selling light recreational vehicles shall have a minimum floor area of 4,000 square feet.

4. Location

- a. Facilities shall be located in the “GC-RD” General Commercial-Redevelopment District.

5. Minimum Lot Size:

- a. Lots or parcels containing buildings pre-dating the adoption of this chapter: five thousand (5,000) square feet.
- b. Newly constructed structures shall meet the minimum lot size requirement of the “GC-RD” General Commercial-Redevelopment District.

6. Minimum Lot width:

- a. Lots or parcels containing buildings pre-dating May 14, 2013, which is the adoption date of this chapter: fifty feet (50’).
- b. Newly constructed structures shall meet minimum lot width requirement of the “GC-RD” General Commercial-Redevelopment District.

7. Permitted Accessory Uses and Service Areas

- a. Accessory uses, including loading and unloading, equipment and vehicle returns, maintenance and servicing shall be conducted entirely indoor or in the rear of a property completely out of public view from adjacent rights-of-way.
- b. All accessory uses and service areas shall be identified in the application and located on the site plan to be approved by the City.
- c. All service areas shall be screened with an opaque solid fence or hedge that is six-feet (6’) in height.

8. Parking

- a. Off-street parking shall be consistent with Section 14-48.
- b. Employee/owner parking shall be in the rear of the property out of public view from adjacent rights-of-way.
- c. Rental equipment and light recreation vehicles for rent or sale shall not be parked, standing or placed in off-street parking areas.

9. Signage

- a. Signage on or through the windows of the principal building shall be limited to twenty-five percent (25%) of the total window area in an area to be approved by the Building Official.
- b. Notwithstanding the above, the use of the property for the rental or sales of beach equipment and light recreational vehicles shall not entitle the owner or occupant to additional signage.

#### 10. Appearance Standards

- a. Each application for a conditional use permit in a structure that lawfully existed prior to the effective date of this Ordinance shall be accompanied with a photographic rendering of the proposed appearance of the structure upon being converted.
- b. Each application for a conditional use permit in a structure that lawfully existed prior to the effective date of this Ordinance shall be accompanied with a proposed landscape plan for the property which plan, upon approval, shall be included as a condition in the development order approving the use.
- c. Each application for a conditional use permit in a new structure subsequent to the effective date of this Ordinance shall meet the following standards:
  - i. The principal structure shall be fully treated consistent with a uniformed theme or architectural style approved by the City, based upon sound and generally accepted land use planning practices and principles, when elevation is visible from public right-of-way or residential district. The burden of proof shall be on the applicant to meet this requirement.
  - ii. Accessory structures including, but not limited to, fences, walls, detached buildings and dumpster enclosures shall be consistent with the approved architectural treatment and style of the principal building so as to create a uniform architectural style and appearance as determined by the City, based upon sound and generally accepted land use planning practices and principles. The burden of proof shall be on the applicant to meet this requirement.
  - iii. Accessory structures noted above and fronting the public right-of-way or a residential district shall be fully treated.

#### 11. Lighting

- a. Neon lighting on buildings and structures are prohibited and unlawful.
- b. All lighting shall conform to the Volusia County Sea Turtle Lighting Standards.
- c. Glare and direct lighting shall not project into the right-of-way or into any residential district.

#### 12. Outdoor activities

- a. Unless otherwise authorized by this code and permitted by the City, all work activities and storage shall take place in fully enclosed areas.

13. Outdoor Displays

- a. The display of any merchandise, rental equipment, light recreation vehicle or accessory outside the principal building is prohibited and unlawful.

14. Variances

- a. Variances from the requirements of this Ordinance are prohibited and the City shall not accept applications for such approval.

**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**

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**HARRY JENNINGS, MAYOR**

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

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**CHERI SCHWAB, CITY CLERK**

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**LONNIE GROOT, CITY ATTORNEY**

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2013.