

ORDINANCE NO. 2021-338

AN ORDINANCE AMENDING § 5.3 OF THE CITY LAND DEVELOPMENT CODE (“LDC”), RELATING TO ACCESSORY USES AND STRUCTURES, TO AUTHORIZE OUTDOOR ART DISPLAY AND SALES AS AN ACCESSORY USE FOR CERTAIN COMMERCIAL PROPERTIES LOCATED IN THE RDB-2, RDB-3, RDD-3, RDM-2, RDM-5, AND BR-1 ZONING DISTRICTS, SUBJECT TO USE SPECIFIC STANDARDS; PROVIDING A SUNSET DATE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City staff propose to amend § 5.3 of the Land Development Code (“LDC”) to add Outdoor Art Display and Sales Activities as an accessory use for commercial properties that are located in the RDB-2, RDB-3, RDD-3, RDM-2, RDM-5, and BR-1 zoning districts, and that front on a portion of Main Street or certain portions of Dr. Mary McLeod Bethune Boulevard; and

WHEREAS, the proposed amendment includes use specific standards; and

WHEREAS, the proposed accessory use and standards are substantially based on the provisions of the Main Street Tattoo & Gallery Planned Development District Agreement recently approved by City Ord. No. 2021-172; and

WHEREAS, in order to allow the City to study and review the benefits to the community of providing for such an accessory use, City staff propose to “sunset” these proposed LDC amendments, so that they will expire on October 19, 2022 unless further legislative action is taken by the City Commission; and

WHEREAS, the Planning Board has reviewed the proposed amendments and recommends approval.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF DAYTONA BEACH, FLORIDA:

SECTION 1. Section 5.3.B of Article 5 of the Land Development Code is hereby amended as follows [~~strike through~~ indicates deleted text; underline indicates added text]:

**Sec. 5.3. - Accessory Uses and Structures.**

\*\*\* [omitted text not affected by this ordinance]

**B. General.**

\*\*\* [omitted text not affected by this ordinance]

4. *Accessory Use/Structure Table for Residential, Business, Industrial, Tourist, and Specialty Districts.*

Table 5.3.B.4: Accessory Use/Structure Table for Residential, Business, Industrial, Tourist, and Specialty Districts																								
A = Permitted by Right   S = Allowed with a Special Use Permit   Blank Cell = Not Permitted By Right																								
Accessory Use/Structure Type	Residential Districts					Business Districts					Industrial Districts					Tourist Districts					Specialty Districts			Use-Specific Standards
	SFR-5	MFR-12	MFR-20	MFR-40	RP	OP	BP	BR-1	BR-2	BA	M-1	M-2	M-4	M-5	T-1	T-2	T-4	T-5	AG	HM	MS			
*** [omitted text not affected by this ordinance]																								
Television or radio antenna	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	5.3.C.29	
<u>Outside Arts Displays and Sales<sup>1</sup></u>								A															<u>5.3.C.34</u>	
Vending machine	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	5.3.C.30	

5. *Accessory Use Table for Redevelopment Districts.*

Table 5.3.B.5: Accessory Use/Structure Table for Redevelopment Districts																										
A = Permitted by Right   S = Allowed with a Special Use Permit   Blank Cell = Prohibited Use																										
Accessory Use/Structure type	RDB-1	RDB-2	RDB-3	RDB-4	RDB-5	RDB-6	RDB-7	RDB-8	RDB-9	RDB-10	RDB-11	RDD-1	RDD-2	RDD-3	RDD-4	RDD-5	RDD-6	RDD-7	RDM-1	RDM-2	RDM-3	RDM-4	RDM-5	RDM-6	Use Specific Standards	
*** [omitted text not affected by this ordinance]																										
Television or radio antenna	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	5.3.C.29	
Outside Arts Displays and Sales <sup>1</sup>		A	A											A						A			A		5.3.C.34	
Vending machine	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	5.3.C.30	

#### NOTES:

1. Sunset provision: The authority to conduct Outdoor Art Displays and Sales as an accessory use will expire on October 19, 2022, unless prior to that date the City Commission adopts an ordinance amending this Code to extend the authority beyond that date. It is the intention of the city that, if no such ordinance is adopted, after October 19, 2022 no property owner shall have the right to continue such accessory use as a “nonconforming use” as otherwise described in this Code.

\*\*\* [omitted text not affected by this ordinance]

SECTION 2. Section 5.3.C of Article 5 of the Land Development Code is hereby amended as follows [~~strike through~~ indicates deleted text; underline indicates added text]:

#### Sec. 5.3. - Accessory Uses and Structures.

\*\*\* [omitted text not affected by this ordinance]

#### C. Standards for Specific Accessory Uses and Structures.

\*\*\* [omitted text not affected by this ordinance]

34. Outside Art Displays and Sales.

- i. Outdoor art displays and sales may be permitted as accessory uses in the RDB-2, RDB-3, RDD-3, RDM-2, RDM-5, and BR-1 zoning districts subject to each of the following standards:
  - a. The property must be located on Main Street, from Atlantic Avenue to the Main Street bridge; and on Dr. Mary McLeod Bethune Boulevard, from North Ridgewood Avenue to Dr. Martin Luther King, Jr. Boulevard and from Lincoln Street to Fulton Street.
  - b. Outdoor art displays and sales shall not commence until all applicable business taxes for the property have been paid, and a sketch showing proposed layout has been submitted and approved. The city manager or designee will approve the sketch only if it contains sufficient information to show that the layout fully complies with these standards.
  - c. Outdoor art displays and sales only occur within the area designated on the approved site layout sketch (the "Outdoor Display Area").
  - d. Operating hours shall be limited to Saturdays between the hours of 9:00 a.m. to 10:00 p.m. and Sundays between the hours of 9:00 a.m. to 7:00 p.m.
  - e. The products displayed and offered for sale shall consist solely of fine art and handmade crafts products produced by local area artists. Neither the display nor sale of mass-produced goods, nor food or beverages, is authorized.
  - f. Any temporary signage posted on the Property in association with the accessory use must strictly comply with the LDC.
  - g. One or more tents may be temporarily set up within the Outdoor Display Area during operating hours, subject to compliance with permitting requirements.
  - h. Live or recorded music may be played within the Outdoor Art Display Area in a manner that is ancillary, subordinate, and complimentary to the accessory use, subject to compliance with noise regulations, including sound amplification regulations.
  - i. No outside storage shall be permitted in association with outdoor art displays and sales, other than overnight storage on Saturday evening (when the accessory use will also continue on Sunday). At all other times, and during severe weather, all tents, equipment, and goods and other materials shall be promptly removed from the Outdoor Display Area.
  - j. Outdoor art displays and sales shall not be permitted at any time when the building on the property is not in compliance with this Code.

k. This section does not authorize outdoor art displays and sales during Bike Week, Biketoberfest, or other event periods during which the City Commission authorizes temporary outside activities associated with a festival pursuant to section 5.4.C.11. Nothing herein will be deemed to alter or modify the City Commission's authority to approve temporary outdoor art displays and sales during as a part of such events pursuant to section 5.4.C.11.

l. All other LDC standards not in conflict with these conditions shall apply.

m. The authority to conduct outdoor art displays and sales as an accessory use will expire on October 19, 2022, unless extended by City Commission ordinance, as referenced in the Notes to Table 5.3.B.5.

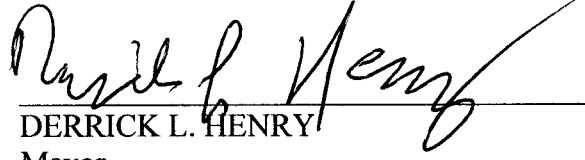
SECTION 3. Prior to the sunset date of October 19, 2022, the City Manager shall report to the Planning Board and City Commission on the success of the program, for purposes of allowing the City Commission to determine whether to adopt an ordinance to amend the Land Development Code in order to continue the program.

SECTION 4. The City Commission has received the report of the Planning Board and hereby finds that the LDC amendments above are consistent with the City's Comprehensive Plan.

SECTION 5. Public Hearing at 6:00 p.m., October 20, 2021, in Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida, after notice published, are deemed to comply with the requirements of the LDC and Section 166.041(3)(c), Florida Statutes.

SECTION 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. This Ordinance shall take effect as provided by law.

  
DERRICK L. HENRY  
Mayor

ATTEST:

  
LETITIA LAMAGNA  
City Clerk

Passed: October 6, 2021  
Adopted: October 20, 2021