

City of South Daytona

Office of the City Manager

Post Office Box 214960 • South Daytona, FL 32121 • 386/322-3010 • Fax 386/322-3008



MEMORANDUM

To: James L. Gillis Jr., City Manager

From: Becky Witte, Deputy City Clerk

Re: Consideration of adopting Ordinance No. 2025-11 amending the City of South Daytona Land Development Regulations and Code of Ordinances to reduce the timeframe for abandonment and initiation of certain land use entitlements from six (6) months to ninety (90) days. First Reading. Public Hearing.

Date: June 5, 2025

The proposed Ordinance is designed to create consistency in the City's land use regulations while supporting timely redevelopment and the productive use of land within the City. Currently, several provisions within the Land Development Regulations and Code of Ordinances allow for an abandonment period of up to six months for zoning permits, non-conforming uses, special exceptions, and special uses. This extended timeframe can contribute to the persistence of underutilized or vacant properties, which negatively affects neighborhood vitality and economic development.

In response, the proposed ordinance amends the following sections:

- **Section 3.8 (Zoning Permits)** of the Land Development Code
- **Section 3.13 (Non-Conforming Provisions)** of the Land Development Code
- **Section 5.7 (Special Exceptions)** of the Land Development Code
- **Section 5.8 (Special Uses)** of the Land Development Code
- **Section 5-218 (Retrofit of Existing Properties)** of the Code of Ordinances

The revisions shorten the allowable period of abandonment and initiation to ninety (90) days. This change aims to encourage timely development activity and reduce prolonged gaps in property utilization.

The Planning Advisory Board at their regular meeting on June 4, 2025, recommended the City Council adopt the proposed changes.

Staff recommends the City Council adopt Ordinance No. 2025-11, amending the City of South Daytona Land Development Regulations and Code of Ordinances to reduce the timeframe for abandonment and initiation of certain land use entitlements from six (6) months to ninety (90) days.

ORDINANCE NO. 2025-11

AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING THE CITY OF SOUTH DAYTONA LAND DEVELOPMENT REGULATIONS, SECTION 3.8 (ZONING PERMITS), SECTION 3.13 (NON-CONFORMING PROVISIONS), SECTION 5.7 (SPECIAL EXCEPTIONS), SECTION 5.8 (SPECIAL USES) AND THE CITY OF SOUTH DAYTONA CODE OF ORDINANCES SECTION 5-218 (RETROFIT OF EXISTING PROPERTIES) TO MODIFY THE TIMEFRAME FOR ABANDONMENT AND INITIATION TO NINETY (90) DAYS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, APPLICABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of South Daytona recognizes the need to ensure consistency, promote redevelopment, and preserve the integrity of land use and zoning within the City; and

WHEREAS, the City Council finds it necessary to modify certain sections of the Land Development Code and Code of Ordinances to reduce the allowable period of abandonment for zoning permits, non-conforming uses, special exceptions, and special uses from six (6) months to ninety (90) days in order to promote timely land use decisions and reduce the proliferation of vacant or underutilized properties; and

WHEREAS, the City of South Daytona Planning Advisory Board, held a public hearing on the 4th day of June 2025, on this proposed amendment and recommended to the City Council adoption of the proposed amendment; and

WHEREAS, the City of South Daytona City Council finds the proposed amendment to the *Land Development Code* to be consistent with the provisions of the *Comprehensive Plan* of the City of South Daytona, and that it is in the best interest and welfare of the citizens of the City to enact this Ordinance; and

WHEREAS, the City of South Daytona has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance including, but not limited to, Section 166.041(3)(c)(2), *Florida Statutes*; 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 ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA THAT:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. Amendment to the City of South Daytona Land Development Code, Section 3.8 – Zoning Permits. Section 3.8 of the Land Development Code is hereby amended as follows (additions underlined, deletions struck through):

Sec. 3.8. Zoning permits.

- A. *Issuance of zoning approval.* Before any development plans are submitted, or prior to any development permit for which a development plan is not required to be issued, or before any development is undertaken for which a development permit is not required, an authorization of zoning must be issued. Such authorization may be given by the director, or designee, and must indicate that the proposed use, structure, lot, or appurtenance is permitted under the zoning regulations of this code. Issuance of a local business tax receipt will serve as prima facia evidence that the use is allowed, but other actions will require a certificate of zoning conformance. Approval of the zoning certificate will expire upon termination, abandonment for ~~six months~~ 90 days, or change in use of the lot or structure. Revocation by the city for cause is allowed if any of the requirements for each zoning district is violated. If revoked, the owner has 90 days to bring the property or violation into compliance with the Code.

SECTION 3. Amendment to the City of South Daytona Land Development Code, Section 3.13 – Non-Conforming Provisions. Section 3.13 of the Land Development Code is hereby amended as follows:

Sec. 3.13. Non-conforming provisions.

- C. *Non-conforming uses of land and structures.* The use of any building or structure not in conformance with these regulations pertaining to uses permitted on the effective date of this ordinance may not be:
1. Changed to another non-conforming use.
 2. Re-established after discontinuance for ~~six months~~ 90 days.
 3. Extended, enlarged, or expanded.
 4. Rebuilt, or repaired after damage exceeding 50 percent of its assessed value as determined by the Property Appraiser of Volusia County, Florida, immediately prior to the damage.

- F. *Abandonment of non-conforming uses of land or structures.* If a non-conforming use of land or a non-conforming use of structure has been abandoned for a period of ~~180~~ 90 consecutive days, such use shall not thereafter be re-established and any future use shall be in conformity with the provisions of this Code.

SECTION 4. Amendment to the City of South Daytona Land Development Code, Section 5.7 – Special Exceptions. Section 5.7 of the Land Development Code is hereby amended as follows:

Sec. 5.7. Special exceptions.

B. General requirements and conditions.

3. Transfer or abandonment of special exceptions:

A special exception use that is not initiated within ~~one year~~ 90 days of being granted shall not be established without a new public hearing under the provisions herein.

A special exception use that is abandoned for a period in excess of ~~six months~~ 90 days shall not be re-established without a new public hearing under the provisions herein.

SECTION 5. Amendment to the City of South Daytona Land Development Code, Section 5.8 – Special Uses. Section 5.8 of the Land Development Code is hereby amended as follows:

Sec. 5.8. Special uses.

B. General requirements and conditions.

3. Transfer or abandonment of special uses:

A special use that is not initiated within ~~one year~~ 90 days of being granted shall not be established without a new public hearing under the provisions herein.

A special use that is abandoned for a period in excess of ~~six months~~ 90 days shall not be re-established without a new public hearing under the provisions herein.

SECTION 6. Amendment to Code of Ordinances, Section 5-218 – Retrofit of existing properties. Section 5-218 of the Code of Ordinances is hereby amended as follows:

Sec. 5-218. Retrofit of existing properties.

All existing commercial properties where the business has been closed, i.e. where a lawfully permitted business is not conducting the normal standard operations of such a business, for a period of ~~six (6) months~~ 90 days or more shall be required to be brought up to current code requirements for the property characteristics listed below before another local business tax receipt may be issued by the city, irrespective of whether change of use is involved or the property has

been sold or transferred. The mere fact that an ~~occupational license~~ local business tax receipt has been issued for the subject site shall not be determinative of whether or not the business is actually conducting operations, since an ~~occupational license~~ local business tax receipt merely grants permission to operate a specific business; it (the ~~occupational license~~ local business tax receipt) shall not, in itself, constitute sufficient evidence that the business is actually operational. If it appears to be physically or economically impractical to bring the property completely up to the code standard for any specific item, a variance for more limited compliance may be sought from the city council.

- (1) Plumbing system.
- (2) Electrical system.
- (3) Mechanical system.
- (4) Accessibility of buildings and facilities for handicapped persons.
- (5) Off-street parking.
- (6) Landscaping and buffering.
- (7) Exterior signage.
- (8) Stormwater management system.

SECTION 7. Administrative Actions. The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes, and rules.

SECTION 8. Codification. The specified provisions of this Ordinance shall become and be made a part of the City of South Daytona Land Development Code and Code of Ordinances, as applicable, and the Sections of this Ordinance may be re-numbered or re-lettered 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.

SECTION 9. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 10. 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 11. Effective Date. This Ordinance shall take effect immediately upon enactment.

APPROVED upon first reading on the 10th day of June 2025 at a regular meeting of the City Council of the City of South Daytona.

APPROVED AND ADOPTED upon second and final reading on the 22nd day of July 2025 at the regular meeting of the City of South Daytona City Council.

CITY OF SOUTH DAYTONA:

ATTEST:

William C. Hall, Mayor

James L. Gillis, Jr., City Manager

CERTIFIED AS TO FORM:

Wade C. Vose, City Attorney

City of South Daytona
Office of the City Manager

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Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

Proposed ordinance’s title/reference:

Ordinance No. 2025-11. An Ordinance of the City of South Daytona, Florida, amending the City of South Daytona Land Development Regulations, Section 3.8 (Zoning Permits), Section 3.13 (Non-Conforming Provisions), Section 5.7 (Special Exceptions), Section 5.8 (Special Uses), and the City of South Daytona Code of Ordinances Section 5-218 (Retrofit of Existing Properties) to modify the timeframe for abandonment and initiation to ninety (90) days; and providing for conflicts, severability, applicability, and an effective date.

Applicable Exemptions:

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:

- ☐ Development orders and development permits, as those terms are defined in s. 163.3164 and development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243;
- ☐ Comprehensive plan amendments and land development regulation amendments initiated by an application by a private party other than the municipality;
- ☐ Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- ☐ Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- ☐ Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

Business Impact Estimate:

The City hereby publishes the following information:

- 1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):**

Amending the City of South Daytona Land Development Regulations, Section 3.8 (Zoning Permits), Section 3.13 (Non-Conforming Provisions), Section 5.7 (Special Exceptions), Section 5.8 (Special Uses), and the City of South Daytona Code of Ordinances Section 5-218 (Retrofit of Existing Properties) to modify the timeframe for abandonment and initiation to ninety (90) days.

- 2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:**

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:**

No additional costs will be incurred.

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:**

None.

- (c) An estimate of the municipality's regulatory costs, including an**

estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:

None.

3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:

None.

4. Additional information the governing body determines may be useful (if any):

None.

Note: The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.