

City of South Daytona

Office of the City Manager

1672 S. Ridgewood Avenue • South Daytona, FL 32119 • 386/322-3014



MEMORANDUM

To: James L. Gillis Jr., City Manager

From: Becky Witte, Deputy City Clerk

Re: Consideration of the Second and Final Reading of Ordinance 2023-19. An Ordinance of the City of South Daytona, Florida, amending the City of South Daytona Code of Ordinances, amending Chapter 8, Health and Sanitation, Article II, Weeds and Offensive Conditions on Property, Section 8-21, to allow the City Manager or his/her designee to provide notice to abate; and providing for conflicts, severability, applicability, codification, and an effective date. Public Hearing.

Date: November 27, 2023

The City Council approved the first reading of Ordinance 2023-19 on November 14, 2023.

The City adopts certain rules and regulations to promote the health, safety, morals, convenience, order, prosperity, and general welfare of the present and future inhabitants of the City. The original City Code included an Article specific to abatements of weeds and offensive conditions on properties. In 1992, the code was modified from weeds and grass from a height of eighteen (18) inches to a height of twelve (12) inches.

The code states the City Manager has the authority to take necessary actions and abatement measures. These nuisances include rank vegetation growth which exhales unpleasant and/or noxious odors, and any trash or rubbish, which may conceal filthy deposits or may harbor insects, reptiles, or rodents or which may constitute a fire hazard is hereby declared a public nuisance.

The typical process for an abatement for high grass begins with a courtesy notice to the resident. The resident is given five days which includes a weekend to mow. The vast majority of property owners resolve the issue immediately upon receiving the courtesy notice. For those few who do not resolve the issue, a notice of abatement is given. If the grass still has not been mowed, then the City will proceed to hire a contractor to cut it. The charge for the abatement is then placed on the Utility and Public Services Bill.

Under the City's proactive measures of Code Compliance, at the time nuisance abatement is required, property owners have received notification and education. When the nuisance has escalated to the City Manager, it is important for swift action to protect the health, safety and welfare of our residents while striving to achieve beautification. In order to keep the process expedited, staff recommends providing the City Manager with the opportunity to designate a member of staff to provide notice that there are nuisances on a property which must be abated.

ORDINANCE NO. 2023-19

AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING THE CITY OF SOUTH DAYTONA CODE OF ORDINANCES, CHAPTER 8, HEALTH AND SANITATION, ARTICLE II, WEEDS AND OFFENSIVE CONDITIONS ON PROPERTY, SECTION 8-21, TO ALLOW THE CITY MANAGER OR HIS/HER DESIGNEE TO PROVIDE NOTICE TO ABATE; AND PROVIDING FOR CONFLICTS, SEVERABILITY, APPLICABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of South Daytona, Florida (the “City”) adopts certain rules and regulations in order to promote the health, safety, morals, convenience, order, prosperity, and general welfare of the present and future inhabitants of the City; and

WHEREAS, in order to protect the health, safety and welfare of our residents, the original city code included an Article to abate weeds and offensive conditions on properties; and

WHEREAS, per City Code of Ordinances, Chapter 8, Article II, Section 8-21. Notice to Abate, the City Manager shall notify the owner of the nuisance and abate if not addressed within a specified time frame; and

WHEREAS, with the severity of nuisances which include any rank vegetation growth which exhales unpleasant and/or noxious odors, and any trash or rubbish, which may conceal filthy deposits or may harbor insects, reptiles or rodents or which may constitute a fire hazard, all of which are declared a public nuisance pursuant to City Code, the City Council finds it reasonable to allow the City Manager to designate a staff member to provide the notice in order to expedite the process; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~striethrough~~ 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. Section 8-21 of the City of South Daytona Code of Ordinances is amended to read as follows:

Sec. 8-21. Notice to abate.

Prior to entering upon and cleaning any such lands by the city, as hereinabove authorized, the city manager or his/her designee shall notify the owner of same to clean them and put them in sanitary condition within five (5) days from the date of said notice. The notice shall be provided by simultaneously both sending it by certified United States mail and posting it upon the subject property. The notice shall be addressed to the owner of the land as the same appears on the tax rolls of Volusia County at the usual mailing address of the owner. If the owner, lessee or occupant of such property or portion thereof, or agent, servant, representative or employee of such owner, lessee or occupant having control of the property or portion thereof fails to clean and make sanitary the property as directed in the notice within the five-day period provided for therein, the city may thereafter, at any time, enter upon same, through its servants, employees, or those under contract to the city, to clean and make sanitary said property.

SECTION 3. 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 4. Codification. The provisions of this Ordinance shall become and be made a part of the City of South Daytona, Florida Code of Ordinances, 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; provided, however, that portions other than Sections 2 and 3 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 5. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 6. 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 7. Effective Date. This Ordinance shall take effect immediately upon enactment.

APPROVED upon first reading on the 14th day of November 2023 at a regular meeting of the City Council of the City of South Daytona.

APPROVED AND ADOPTED upon second and final reading on the 12th day of December 2023 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 2023-19. An Ordinance of the City of South Daytona, Florida, amending the City of South Daytona Code of Ordinances, amending Chapter 8, Health and Sanitation, Article II, Weeds and Offensive Conditions on Property, Section 8-21, to allow the City Manager or his/her designee to provide notice to abate; and providing for conflicts, severability, applicability, codification, 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:

- ☐ Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
- ☐ 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 Chapter 8, Health and Sanitation, Article II, Weeds and Offensive Conditions on Property, Section 8-21, to allow the City Manager or his/her designee to provide notice to abate.

This Ordinance provides the City Manager with the opportunity to designate a member of staff to provide notice that there are nuisances on a property which must be abated. Nuisances include any rank vegetation growth which exhales unpleasant and/or noxious odors, and any trash or rubbish, which may conceal filthy deposits or may harbor insects, reptiles or rodents or which may constitute a fire hazard, all of which are declared a public nuisance pursuant to City Code.

- 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):

This Ordinance provides the City Manager with the opportunity to designate a member of staff to provide notice that there are nuisances on a property which must be abated. Nuisances include any rank vegetation growth which exhales unpleasant and/or noxious odors, and any trash or rubbish, which may conceal filthy deposits or may harbor insects, reptiles or rodents or which may constitute a fire hazard, all of which are declared a public nuisance pursuant to City Code.

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.*