

City of South Daytona
Community Development Department

1672 S. Ridgewood Avenue • South Daytona, FL 32121 • 386/322-3022 • Fax 386/322-3018



MEMORANDUM

To: James L. Gillis Jr.
City Manager

From: S. Laureen Kornel, AICP
Community Development Director

Date: August 24, 2021

Re: Second and Final Reading of Ordinance No. 2021-11 Land Development Code Amendment: Clarifying accessory uses and structures and clarifying sheds, adding regulations for garages, and prohibiting bike washes, small box discount stores and liquor stores within the CRA.

AGENDA ITEM

Item # E24

Date: September 13, 2021

This is the second and final reading of Ordinance 2021-11. The City Council approved the first reading on August 10, 2021.

This administrative request amends Article V, Zoning Regulations, Section 5.6, Supplementary Regulations, and Section 5.5, Schedule of Zoning District Regulations, of the South Daytona Land Development Code (LDC) as follows:

- Clarify accessory uses and structures.
- Clarify sheds are not required to be the same building material, color, or shape as the principal structure and require Homeowner Association approval (if applicable).
- Add garage regulations where none have existed to limit the maximum square footage of a garage.
- Prohibit bike washes within the boundaries of the Community Redevelopment Area (CRA).
- Prohibit Small Box Discount Store within the CRA.
- Prohibit Liquor Stores within the CRA.

Over time there are minor updates to the LDC that have been identified as in need of amending. Staff has grouped the proposed amendments under two sections of the LDC. The attached ordinance specifies in strikethrough and underline each of the proposed amendments.

The proposed Land Development Amendment is consistent with the City's guiding policy documents. On July 21, 2021 the Planning and Appeals Board unanimously voted (7-0) to recommend approval of the modifications outlined in the attached Ordinance. The City Council approved the first reading on August 10, 2021.

Attachment: Ordinance 2021-11

ORDINANCE NO. 2021-11

AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING THE CITY OF SOUTH DAYTONA LAND DEVELOPMENT REGULATIONS ARTICLE V., ZONING REGULATIONS, SECTION 5.5., SCHEDULE OF ZONING DISTRICT REGULATIONS, PROHIBITING SMALL BOX DISCOUNT STORES AND LIQUOR STORES WITHIN THE COMMUNITY REDEVELOPMENT AREA; AMENDING SECTION 5.6, SUPPLEMENTARY REGULATIONS, CLARIFYING THE REGULATIONS FOR ACCESSORY USES AND STRUCTURES; PROVIDING REGULATIONS FOR SHEDS AND GARAGES; PROHIBITING MOTORCYCLE AND CAR WASH SPECIAL EVENTS IN THE COMMUNITY REDEVELOPMENT AREA; RENUMBERING SUBSECTIONS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, APPLICABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Chapters 166 and 163, *Florida Statutes*, include authority to enact regulations to protect the health, safety, and welfare, and in the interest of the citizens of the City; and

WHEREAS, the City Council adopted a redevelopment plan in 1997 creating a Community Redevelopment District and programs for selected areas of the City that have been designated as needing redevelopment under State Statute; and

WHEREAS, the City Council desires continued improvement of the appearance and quality of commercial activity in the Community Redevelopment District; and

WHEREAS, the Community Redevelopment District Overlay established in 2008 provides for the application of specific regulations modifying the underlying zoning regulations within the Community Redevelopment District; and

WHEREAS, the Community Redevelopment District Overlay was established to enhance the quality and improve property values in the redevelopment district; and

WHEREAS, the permitted uses within the Community Redevelopment District Overlay shall be the same as the underlying zoning classification except for prohibited uses established by this and previous ordinances; and

WHEREAS, adding prohibited uses to the Community Redevelopment District Overlay is essential to a rational and continued improvement of the commercial corridors in the Community Redevelopment District; and

WHEREAS, the addition of prohibited uses in the Community Redevelopment District has received a unanimous and favorable recommendation from the Planning and Appeals Board; and

WHEREAS, currently the City of South Daytona addresses sheds in its *Land Development Code*; and

WHEREAS, the City of South Daytona does not currently contain standards for the building of garages in its *Land Development Code*; and

WHEREAS, the City of South Daytona desires to amend the standards for the building of sheds and create standards for garages in of its *Land Development Code*; and

WHEREAS, the City of South Daytona Planning and Appeals Board, serving as the local planning agency, held a public hearing on the 16th day of July, 2021, on this proposed amendment to the *Land Development Code* and found the proposed amendment to be consistent with the City of South Daytona *Comprehensive Plan* and recommended approval of Ordinance No. 2021-11 to the City of South Daytona City Council; 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 the amendment 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. Adoption. The City Council of the City of South Daytona hereby amends Article V of the Land Development Code of the City of South Daytona, entitled “Zoning Regulations,” Section 5.5., entitled “Schedule of zoning district regulations,” and Section 5.6., entitled “Supplementary regulations,” as follows:

ARTICLE V. - ZONING REGULATIONS

Sec. 5.5. Schedule of zoning district regulations.

S. *Community redevelopment district overlay.*

3. *Permitted uses:* Permitted uses within the community redevelopment district overlay shall be the same as the underlying zoning classification except the following uses shall

be prohibited within the overlay district. Any prohibited uses currently established within the community redevelopment district overlay shall be subject to the nonconforming use provisions of Section 3.13 C. of this Code.

m. Small box discount stores.

(i) Definition.

“Small Box Discount Store” is defined as a retail store that is 16,000 square feet or less in size, which offers for sale a variety of convenience shopping goods and continuously offers the majority of the items in their inventory for sale at a price lower than traditional retail stores, and does not include a pharmacy, does not sell gasoline or diesel fuel, or specialty items and food items as a primary product (i.e., greeting cards, consignment, meats, seafood, cheese, or oils and vinegars).

n. Liquor stores.

(i) Definition.

“Liquor Store” is defined as a retail store licensed pursuant to the Beverage Law (Chs. 561-568, Fla. Stat.) with a 3PS quota class alcoholic beverage license or a 4COP quota class alcoholic beverage license, which sells alcohol for off-premises consumption.

Sec. 5.6. - Supplementary regulations.

In general. Accessory structures and uses are permitted in conjunction with any principal use, provided that they are recognized as clearly incidental and subordinate to the principal use and do not alter the characteristics of the lots. Regulations under this section shall apply to all zoning districts and to all buildings, structures, and uses of land or water in all zoning districts except as may otherwise be provided in the following regulations:

A. Accessory uses and structures. Specific uses and structures, except for fences and walls, which are covered under a separate section of this Code, shall be additionally governed by the following regulations unless otherwise specified within this article:

1. No accessory structure or use shall be permitted on any lot which does not have an existing or permitted principal use or structure.

2. All accessory structures are required to be located on the same lot as the principal structure or use.

3. No accessory structure or use shall be permitted in any platted easement, unless otherwise specifically permitted by the easement dedication. Fences may be located within certain easements with the condition that if the fence is required to be removed as a result of the existing easement, the property owner is solely responsible for replacement of the fence.

4. Unless otherwise expressly permitted in this section, any structure with a hard roof

is required to meet the principal building setbacks for the respective zoning district.

5. All accessory structures require the issuance of building permits by the city building department.

6. ~~1.~~ Setback encroachments for uses and structures other than sheds.

7. ~~2.~~ Setback encroachments and number and size limitations for sheds.

a. No shed shall be located in the front yard or side corner yard of a residential property.

b. A shed may be located in the rear yard but no closer than five feet from the rear property line.

c. A shed may be located in the side yard of a residential property provided that it does not encroach into the required side yard setback.

d. The number of sheds on a residential property is limited to two.

e. The combined total footprint area of all sheds, including existing ones, on a residential property shall not exceed 200 square feet. A shed greater than 200 square feet shall be considered a garage and shall be subject to the requirements of a garage.

f. Sheds in zoning districts other than residential shall not be located in the required front yard, side yard, or side corner yard.

g. No shed shall exceed 11 feet in height.

h. Sheds in residential zoning districts shall not be required to be of the same building material, color, or shape as the principal structure.

i. If the property is governed by a Home Owner's Association (HOA), then written approval from the HOA is required.

j. ~~i.~~ "Side corner yard" is defined as that portion of the yard behind the front yard that lies between the plane of the side of the house and the paved street which it faces.

k. ~~j.~~ "Side yard" is defined as that portion of the yard behind the front yard that lies between the side of the house and adjoining side lot line with the neighboring property.

l. ~~k.~~ "Shed" is defined as any storage structure that is either attached to or detached from the principal structure and designed primarily for storage of small items such as yard equipment, tools, toys, bicycles etc., but the term does not include a garage designed for the storage of automobiles.

8. Garages. No garage may be enclosed for additional living area, unless an additional garage is constructed or presently exists on the subject property. No garage shall be used as a rental unit or as living quarters. No commercial business shall be permitted in a residential garage. Garages shall be governed by the following regulations:

- a. The garage shall not exceed 50% of the total square footage of the principal structure.
- b. The building setbacks of the garage shall conform to the principal building setbacks of the assigned zoning district.
- c. Garages shall be of the same building material, color, and shape as the principal house structure on the same property. For example, if the principle structure is constructed with concrete block, then the garage shall be constructed out of concrete block.
- d. Garages shall have a roof pitch that is consistent with the principal house structure. However, the pitch of the garage roof is not required to be the same slope as the principal house structure.
- e. A detached garage shall be located on the same parcel as the principal structure.
- f. If the property is governed by a Home Owner's Association (HOA), then written approval from the HOA is required.

9. 3. Outside storage.

10. 4. Special events. There are two types of special events, site-specific special events and community-wide special events. All special events that are not community-wide special events shall be classified as site-specific special events. Site-specific special events shall be limited to 30 days per year with no more than one site-specific special event per quarter. However, all 30 days may be used in a single special event. For parcels with multiple licensed businesses, the limitation for site-specific special events shall be allowed for each lawfully licensed business. Community-wide special events and the duration of such special events shall be designated annually by the city council. For parcels with multiple licensed businesses, community-wide special events shall be reviewed based on the entire parcel. If more than one licensed business wants to engage in special event activity during a community-wide special event, the businesses or the property owner must coordinate the special event activities, including site planning and layout. Motorcycle/car wash events are prohibited within the boundaries of the Community Redevelopment Area. Special events shall be reviewed and approved subject to the provisions below:

11. 5. Prohibited accessory structures.

SECTION 3. Applicability. This ordinance shall not apply to applications for development approval for a project for which a pending application for a zoning approval, site plan approval, building permit, or other development order has been submitted to the City before the date the proposed revisions contained in this ordinance first appeared on

an agenda of the Planning and Appeals Board (July 16, 2021).

SECTION 4. 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 5. Codification. The provisions of this Ordinance, including its recitals, shall become and be made a part of the City of South Daytona Land Development Code 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 Sections 1, 3, 4, 5, 6, 7, and 8 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 6. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 7. 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 8. Effective Date. This Ordinance shall take effect immediately upon enactment.

APPROVED upon first reading on the 10th day of August, 2021 at a regular meeting of the City Council of the City of South Daytona.

APPROVED AND ADOPTED upon second and final reading on the 13th day of September, 2021 at the regular meeting of the City of South Daytona City Council.

CITY OF SOUTH DAYTONA:

ATTEST:

James L. Gillis, Jr., City Manager

William C. Hall, Mayor

CERTIFIED AS TO FORM:

Wade C. Vose, City Attorney