

City of South Daytona
Community Development Department

1672 S. Ridgewood Avenue • South Daytona, FL 32119 • 386/322-3022 • Fax 386/322-3018



To: James L. Gillis Jr., City Manager
From: S. Laureen Kornel, Community Development Director
Date: September 4, 2023
Re: **First Reading of Ordinance No. 2023-14, a Land Development Code amendment to remove conflicting outdoor storage exceptions including outdoor product display provided within areas zoned Business General Commercial and amending the screening requirements of outdoor storage in areas zoned Light Industrial**

Overview: This is an administrative request to amend Article V Zoning Regulations, amending Section 5.6, Supplementary Regulations of the Land Development Code (LDC) requirements to remove certain outside storage requirements including outdoor product display in areas zoned Business General Commercial (BGC) and to amend the screening of outdoor storage in areas zoned Light Industrial (LI) under the Accessory Uses and Structures requirements to facilitate administration of land use throughout the City.

Background: Currently, under Section 5.6(A)(9)(a), the LDC prohibits outside storage of new and used equipment and materials in commercial zones. However, the LDC goes on to list exceptions to the rule including landscape or garden supplies, display set-ups of products customarily used out of doors and sidewalk sales. Going forward, the City's intent is to remove the provided exceptions to maintain the original intent of this section of the LDC to not allow outside storage and outdoor product display under the BGC zoning classification. The exceptions are being removed because they conflict with the City's redevelopment efforts to improve the appearance and quality of commercial activity throughout the entire city. The LDC does permit outdoor storage under the LI and BGC Zoning classifications under certain required criteria.

Under Section 5.6(A)(9)(b), the LDC currently requires LI Zones to enclose outdoor storage with an opaque wall, fence, or hedge from view. Going forward the City's intent is to require enclosing all outdoor storage located within the LI zoning classification with an opaque wall only.

In addition, the sidewalk sale language will be removed from this section of the Code as part of this amendment to avoid confusion with the City's vision of not having the frontage of commercial businesses full of various products for sale like an outdoor flea market.

Analysis: The overall intent of the City has been to provide for outdoor storage only within the LI zoning classification behind a wall for screening to maintain aesthetics throughout the City. The appearance of outdoor storage and outdoor product display for extended periods of time can contribute to blight and unsightly property conditions, as well as depreciation of the value of surrounding properties, which can impede redevelopment efforts. Outdoor storage and outdoor product display can diminish utility of required pedestrian movement and required parking spaces. It can hinder the flow of traffic on designated on site traffic lanes on a given lot or parcel thereby

obstructing traffic in a manner that can create an unsafe condition. For these reasons outdoor storage is typically preferred outside of the BGC zoning classification.

Under Section 5.6(9)(b) of the LDC the City does allow for outdoor storage appropriately in areas zoned for LI. Where outdoor storage may be permitted within areas zoned LI, the City Council continue to require screening (opaque wall) but without the options of screening with a fence or hedge.

The BGC zoning district is considered inappropriate for outdoor storage for reasons stated above. The purpose of the amendment is to clarify conflicting outdoor storage and outdoor product display requirements and to require outdoor storage in Light Industrial areas to be enclosed with an opaque wall. Going forward, those businesses that have customarily been allowed to have outdoor storage and outdoor product display will not be impacted by the proposed change in policy.

Conclusion: The proposed amendment is consistent with the Comprehensive Plan and the LDC. By amending the outdoor storage requirements, as shown in the attached ordinance, the amendment clarifies the original intent to regulate outdoor storage and outdoor project display in areas zoned BGC without exceptions throughout the City. In addition, the LI requirements will require enclosure of outdoor storage with an opaque wall. The attached ordinance includes the proposed amendment in ~~strike through~~ and underline.

Recommendation: Staff recommends that the City Council **APPROVE** at first reading, Ordinance No. 2023-14, an administrative request to amend Section 5.6, Supplementary regulations of the LDC requirements to remove certain outside storage requirements including outdoor product display within areas zoned Business General Commercial (BGC) and to require outdoor storage be enclosed with an opaque wall in areas zoned Light Industrial (LI).

Attachment: Ordinance No. 2023-14

ORDINANCE NO. 2023-14

AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING THE CITY OF SOUTH DAYTONA LAND DEVELOPMENT REGULATIONS SECTION 5.6 TO REMOVE EXCEPTIONS FOR OUTSIDE STORAGE OF EQUIPMENT OR MATERIALS AND TO PROHIBIT OUTDOOR PRODUCT DISPLAY IN COMMERCIAL ZONES AND AMEND OUTDOOR STORAGE REQUIREMENTS IN INDUSTRIAL ZONES, 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 desires continued improvement of the appearance and quality of commercial activity throughout the City; and

WHEREAS, the Land Development Code provides for the Planning and Appeals Board to draft changes to codes as may be necessary from time to time; and

WHEREAS, the Comprehensive Plan and the Land Development Code regulations were established to enhance the quality and improve property values throughout the City; and

WHEREAS, deleting outdoor storage and outdoor product display exceptions within the Commercial zoning classifications and amending screening requirements for Industrial zoning classifications is essential to a rational and continued improvement of the commercial corridors throughout the City; and

WHEREAS, the appearance of outdoor storage and outdoor product display for an extended period of time can contribute to blight and unsightly property conditions, depreciate the value of surrounding properties, and impede redevelopment efforts; and

WHEREAS, limiting outdoor storage and outdoor product display under the Commercial zoning classifications and amending screening requirements for Industrial zoning classifications within the City promotes the vision of the City Council and the guiding policy documents of the City, including the Comprehensive Plan; and

WHEREAS, the City of South Daytona Planning and Appeals Board, held a public hearing on the 16th day of August 2023, 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. Adoption. The City Council of the City of South Daytona hereby amends Article V. – Zoning Regulations of the Land Development Code of the City of South Daytona, Section 5.6. entitled “Supplementary Regulations” as follows:

A. *Accessory Uses and Structures.*

9. *Outside Storage.* Outside storage of new and used equipment and materials shall be regulated as follows:

a. Commercial zones: No outside storage of equipment or materials or outside product display shall be allowed in commercial zones, ~~with the following exceptions:~~

~~[1] Landscape or garden supplies in fenced areas approved as part of the commercial site plan.~~

~~[2] Display set-ups of products customarily used out of doors.~~

~~[3] Sidewalk sales — Sidewalk sales of new and used merchandise may be held in commercial zones under the following conditions:~~

~~a. Sidewalk sales by a business in front of its locale shall be allowed by permit from the community development department.~~

~~b. A sidewalk sales does not include a special event sale that extends beyond the sidewalk in front of the business; special event sales extending beyond the sidewalk shall only be allowed by special event permit.~~

~~c. A sidewalk sale will generally be considered a temporary promotional event to be allowed for no more than seven consecutive calendar days at a time and a total of 30 days per calendar year per business location. The interval between any two consecutive sidewalk sales at the same business location shall be at least seven consecutive days.~~

~~d. The sole exceptions to sidewalk sales as a temporary promotional event are:~~

~~(1) Sidewalk sale of fresh fruits and vegetables in front of a business that, as part of its regular operation, offers such produce for sale indoors; and~~

~~(2) Sidewalk sale of such products customarily used outdoors as landscape or garden supplies, lawn mowers, and similar items, so long as they are sold as~~

~~part of the regular business operation. Such sidewalk sales shall be limited to the regular hours of the business.~~

~~e. Sidewalk sales shall be limited to private property and shall not be conducted on public right of way or public sidewalk.~~

~~f. Sidewalk sales activity must not impede pedestrian traffic; this means leaving at least approximately two and one-half feet of sidewalk open for pedestrian traffic.~~

~~g. With the exception of sidewalk sales of those items described in "d." above, sidewalk sales merchandise must be removed from the sidewalk at the close of business in the evening. Fruits and vegetables left outside overnight must be adequately covered and secured.~~

~~h. Permit required: A sidewalk sales permit from the community development department shall be required for each separate temporary sidewalk sales period. The fee for this permit shall be outlined in chapter 21 of the city code. This fee shall be in addition to that for any related sign permit.~~

~~[4] *Other outside displays:* Temporary displays for products sold by the on-site business may be allowed by securing a permit from the CDD. Such sales may only be conducted for one week at a time, with a maximum of 30 days per calendar year. The area of display must be kept free of encumbrances/debris, not block pedestrian or vehicular access, and be secured from access during closing hours. The CDD may impose reasonable restrictions upon the applicant as is deemed appropriate to protect the health, safety and welfare of the community. The permit fee shall be outlined in chapter 21 of the city code.~~

b. Industrial zones: No outside storage shall be allowed in industrial zones, except under the following conditions:

[1] All storage areas shall be enclosed by an opaque wall, fence, or hedge sufficient to screen such storage from view from off-site.

[2] All material shall be secured, if necessary, to withstand winds.

[3] Required landscape areas along property lines shall be maintained on the exterior of storage screening walls.

[4] Screening shall not be required around storage areas for landscape plant material.

[5] All aisles and driveways shall be concrete or asphalt pavement with suitable sub-base as approved by the city engineer. Property with aisles or driveways not in compliance with this requirement shall be considered a non-conforming structure and subject to the city's non-conforming regulations. Furthermore, any improvements to the property the cost of which exceed 50 percent of the most recent assessed value of the property by the Volusia County Property Appraiser shall require the aisles and driveways to be brought into compliance with the above requirement.

P. *Exceptions as a conditional use.* In zoning districts where the following activities are permitted uses, the CDD shall permit them as outside activities in accordance with all applicable requirements and under the following conditions herein provided:

7. Reserved. ~~Sidewalk sales. Sidewalk sales of new and used merchandise may be held in commercial zones under the following conditions:~~

- a. ~~Sidewalk sales by a business in front of its locale shall be allowed by permit from the community development department.~~
- b. ~~A sidewalk sale does not include a special event sale that extends beyond the sidewalk in front of the business; special event sales extending beyond the sidewalk shall only be allowed by special permit upon approval by the city council or city manager.~~
- e. ~~A sidewalk sale will generally be considered a temporary promotional event to be allowed for no more than seven consecutive calendar days at a time and a total of 30 days per calendar year per business location. The interval between any two consecutive sidewalk sales at the same business location shall be at least seven consecutive days.~~
- d. ~~The sole exceptions to sidewalk sales as a temporary promotional event are:

 - 1. ~~Sidewalk sale of fresh fruits and vegetables in front of a business that, as part of its regular operation, offers such produce for sale indoors; and~~
 - 2. ~~Sidewalk sale of such products customarily used outdoors as landscape or garden supplies, lawn mowers, and similar items, so long as they are sold as part of the regular business operation.~~~~Sidewalk sales under d.1 and d.2 above shall be limited to the regular hours of business.~~~~
- e. ~~Sidewalk sales shall be limited to private property and shall be conducted on public right or way or public sidewalk.~~
- f. ~~Sidewalk sales activity must not impede pedestrian traffic; this means leaving approximately two and one half feet of sidewalk open for pedestrian traffic.~~
- g. ~~With the exception of sidewalk sales of those items described in "d" above, sidewalk sales merchandise must be removed from the sidewalk at the close of business in the evening. Fruits and vegetables left outside overnight must be adequately covered and secured.~~
- h. ~~Permit required: A sidewalk sales permit from the community development department shall be required for each separate temporary sidewalk sales period. The fee for this permit shall be \$10.00 per event period. The fee shall be in addition to that for any related sign permit.~~

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, 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; 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 11th day of September 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 ____ day of _____ 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