

**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  
Date: September 30, 2024  
Re: Ordinance No. 2025-01. An Ordinance of the City of South Daytona, Florida, amending Article V of the Land Development Code of the City of South Daytona, entitled "Zoning Regulations," Section 5.7., "Special Exceptions" and Section 5.8., entitled "Special Uses," to allow for transfers of Special Exceptions and Special Uses following a new public hearing; and providing for administrative actions, codifications, conflicts, severability, applicability, and an effective date. **First Reading. Public Hearing.**

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Sections 5.7 and 5.8 of the Land Development Code allow for certain Special Exceptions and Special Uses. Special Exceptions and Special Uses are generally not appropriate within their Zoning Districts without restrictions and set parameters. These restrictions and parameters ensure the exception or use will not adversely affect the public health, safety, comfort, good order, appearance, convenience, and general welfare of the neighborhood. The City Council approves these Special Exception and Special Use applications. To ensure regulations continue to be met, those Special Exceptions and Special Uses, when transferred, should be re-reviewed and approved by the City Council.

**Sec. 5.7. Special exceptions.**

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*B. General requirements and conditions.*

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3. *Transfer or abandonment of special exceptions:* The ownership of a special exception use may not be transferred to another party without a new public hearing under the provisions herein., ~~unless a specific restriction on such action is made at the time of approval.~~

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A special exception use that is not initiated within one year 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 shall not be re-established without a new public hearing under the provisions herein.

### Sec. 5.8. Special uses.

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#### B. *General requirements and conditions.*

\*\*\*

3. *Transfer or abandonment of special uses:* The ownership of a special use may not be transferred to another party without a new public hearing under the provisions herein. ~~, unless a specific restriction on such action is made at the time of approval.~~

A special use that is not initiated within one year 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 shall not be re-established without a new public hearing under the provisions herein.

The Planning Advisory Board recommended the City Council approve the attached Ordinance as written at their regular meeting on Wednesday, September 18, 2024.

In conclusion, staff recommends the City Council approve the first reading of Ordinance No. 2025-01.

**ORDINANCE NO. 2025-01**

**AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING ARTICLE V OF THE LAND DEVELOPMENT CODE OF THE CITY OF SOUTH DAYTONA, ENTITLED “ZONING REGULATIONS,” SECTION 5.7., ENTITLED “SPECIAL EXCEPTIONS” AND SECTION 5.8., ENTITLED “SPECIAL USES,” TO ALLOW FOR TRANSFERS OF SPECIAL EXCEPTIONS AND SPECIAL USES FOLLOWING A NEW PUBLIC HEARING; AND PROVIDING FOR ADMINISTRATIVE ACTIONS, CODIFICATION, CONFLICTS, SEVERABILITY, APPLICABILITY, 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**, the City allows for certain Special Uses within the Land Development; and

**WHEREAS**, generally, these special uses would not be appropriate without restriction throughout their particular zoning districts, but may, if controlled as to number, area, location, or relation to the neighborhood, not adversely affect the public health, safety, comfort, good order, appearance, convenience, and general welfare; and

**WHEREAS**, to ensure regulations continue to be met per the Land Development Code, those Special Exceptions when transferred should be reviewed and approved by the City Council; and

**WHEREAS**, the City of South Daytona Planning Advisory Board, held a public hearing on the 18th day of September 2024, on this proposed amendment and recommended to the City Council adoption of the proposed amendment; and

**WHEREAS**, the City Council finds it appropriate to amend the Land Development Code in order to create diverse, thriving, areas within our City; and

**WHEREAS**, for purposes of this Ordinance, underlined type shall constitute additions to the original text, \*\*\* shall constitute ellipses to the original text and ~~strike through~~ 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.**

- a. 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 5.7. entitled “Special Exceptions” as follows:

**Sec. 5.7. Special exceptions.**

\*\*\*

*B. General requirements and conditions.*

\*\*\*

- 3. *Transfer or abandonment of special exceptions:* The ownership of a special exception use may not be transferred to another party without a new public hearing under the provisions herein, ~~unless a specific restriction on such action is made at the time of approval.~~

A special exception use that is not initiated within one year 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 shall not be re-established without a new public hearing under the provisions herein.

- b. 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 5.7., entitled "Special Uses," as follows:

**Sec. 5.8. Special uses.**

\*\*\*

*B. General requirements and conditions.*

\*\*\*

- 3. *Transfer or abandonment of special uses:* The ownership of a special use may not be transferred to another party without a new public hearing under the provisions herein, ~~unless a specific restriction on such action is made at the time of approval.~~

A special use that is not initiated within one year 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 shall not be re-established without a new public hearing under the provisions herein.

**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 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 14<sup>th</sup> day of January 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 11<sup>th</sup> day of February 2025 at the regular meeting of the City of South Daytona City Council.

CITY OF SOUTH DAYTONA:

ATTEST:

\_\_\_\_\_  
William C. Hall, Mayor

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James L. Gillis, Jr., City Manager

CERTIFIED AS TO FORM:

\_\_\_\_\_  
Wade C. Vose, City Attorney



## 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 2025-01

An Ordinance of the City of South Daytona, Florida, amending Article V of the Land Development Code of the City of South Daytona, entitled “Zoning Regulations,” Section 5.7., “Special Exceptions” and Section 5.8., entitled “Special Uses,” to allow for transfers of Special Exceptions and Special Uses following a new public hearing; and providing for administrative actions, codifications, 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
- T 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):**

Sections 5.7 and 5.8 of the Land Development Code allow for certain Special Exceptions and Special Uses. Special Exceptions and Special Uses are generally not appropriate without restrictions and set parameters as long as they will not adversely affect the public health, safety, comfort, good order, appearance, convenience, and general welfare of the neighborhood. The City Council approves these Special Exception and Special Use applications. To ensure regulations continue to be met those Special Exceptions and Special Uses when transferred should be reviewed and approved by the City Council.

- 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. The limited number of business with a Special Use or Special Exception will not be impacted but new owners of those businesses may be.

- (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):**

Sections 5.7 and 5.8 of the Land Development Code allow for certain Special Exceptions and Special Uses. Special Exceptions and Special Uses are generally not appropriate without restrictions and set parameters as long as they will not adversely affect the public health, safety, comfort, good order, appearance, convenience, and general welfare of the neighborhood. The City Council approves these Special Exception and Special Use applications. To ensure regulations continue to be met those Special Exceptions and Special Uses when transferred should be reviewed and approved by the City Council.

**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.*