

**ORDINANCE 2022-04**

**AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA RELATING TO APPROVAL OF A DEVELOPMENT AGREEMENT PERTAINING TO PROPERTIES OWNED BY 2025 SOUTH ATLANTIC AVENUE, LLC IN ACCORDANCE WITH THE PROVISIONS OF THE “FLORIDA LOCAL GOVERNMENT DEVELOPMENT AGREEMENT ACT” AS SET FORTH AT SECTIONS 163.3220 - 163.3243, *FLORIDA STATUTES*; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS, PROVIDING FOR A SAVINGS PROVISION AND THE EFFECT OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AS WELL AS THE CORRECTION OF SCRIVENER’S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** 2025 South Atlantic Avenue, LLC and the City of Daytona Beach Shores have considered and processed and the City Council of the City of Daytona Beach Shores hereby approves and enacts the Development Agreement, as set forth in the Exhibit to this Ordinance (which Exhibit is incorporated herein by this reference thereto as if fully set forth herein verbatim), all of said actions occurring pursuant to the *Florida Local Government Development Agreement Act* as set forth at Sections 163.3220 through 163.3243, *Florida Statutes*; and

**WHEREAS,** 2025 South Atlantic Avenue, LLC is the owner of the properties that are subject to this Development Agreement set forth in the Exhibit to this Ordinance; and

**WHEREAS,** the City of Daytona Beach Shores and 2025 South Atlantic Avenue, LLC have complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

**WHEREAS,** this Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City Daytona Beach Shores*.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA THAT:**

**SECTION ONE: LEGISLATIVE FINDINGS AND INTENT.**

(a). The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the City staff report and City Council agenda memorandum relating to the application relating to the proposed land use approvals and authorization of zoning entitlements pertaining to the property referenced in the Development Agreement as well as the recitals (whereas clauses) to this Ordinance.

(b). The findings of the provisions of the subject Development Agreement between the City of Daytona Beach Shores and 2025 South Atlantic Avenue, LLC are hereby adopted, ratified and affirmed.

**SECTION TWO: APPROVAL AND ENACTMENT OF DEVELOPMENT AGREEMENT.**

The Development Agreement between the City of Daytona Beach Shores and 2025 South Atlantic Avenue, LLC as set forth in the Exhibit to this Ordinance is hereby approved and enacted. The said Exhibit attached to this Ordinance is hereby ratified and affirmed and incorporated into this Ordinance as a substantive part of this Ordinance

**SECTION THREE: SAVINGS; EFFECT OF ORDINANCE.**

The prior actions of the City of Daytona Beach Shores relating to the regulation of lands and development activities within the City including, but not limited to, the property which is the subject of the Development Agreement between the City of Daytona Beach Shores and 2025 South Atlantic Avenue, LLC as set forth in the Exhibit to this Ordinance, and involving the subject property, are hereby ratified and affirmed.

**SECTION FOUR: CODIFICATION AND IMPLEMENTATION; SCRIVENER'S ERRORS.**

- (a). The provisions of this Ordinance shall be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida*.
- (b). The City Manager, or designee(s), is hereby authorized to take any and all actions necessary to implement the provisions of this Ordinance.
- (c). The City Attorney shall assist the City Manager in the implementation of this Ordinance as may be necessary and required.
- (d). The sections, divisions and provisions of this Ordinance may be renumbered or re-lettered as deemed appropriate by the Code codifier.
- (e). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

**SECTION FIVE: CONFLICTS.**

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

**SECTION SIX: 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 SEVEN: EFFECTIVE DATE.**

This Ordinance shall take effect immediately as provided by law.

**CITY OF DAYTONA BEACH SHORES, FLORIDA**

\_\_\_\_\_  
**NANCY J. MILLER, MAYOR**

\_\_\_\_\_  
**MICHAEL T. BOOKER, CITY MANAGER**

\_\_\_\_\_  
**CHERI SCHWAB, CITY CLERK**

Approved as to form:

\_\_\_\_\_  
**BECKY VOSE, CITY ATTORNEY**

Passed on first reading this \_\_\_ day of \_\_\_\_\_, 2022.

Enacted on second reading this \_\_\_ day of \_\_\_\_\_, 2022.

**DEVELOPER SIGNATURE BLOCK FOLLOWS:**

**PLENARY CONCURRENCE OF DEVELOPER**

The undersigned developer concurs in each and every respect to the provisions of the subject amendment to the subject Development Agreement and the provisions of this Ordinance.

**2025 South Atlantic LLC**, a Florida limited liability company.

\_\_\_\_\_  
Mark Fogel, Member CEO  
Date: \_\_\_\_\_, 2022

*WITNESSES:*

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Printed Name of Witness

\_\_\_\_\_  
Printed Name of Witness

**STATE OF FLORIDA                    )**

**COUNTY OF VOLUSIA                )**

**I HEREBY CERTIFY** that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared \_\_\_\_\_, and he acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily and they are personally known to me or provided \_\_\_\_\_ as identification.

**Witness** my hand and official seal in the County and State last aforesaid this \_\_\_ day of \_\_\_\_\_, 2022.

(Affix Notary Seal)

\_\_\_\_\_  
Notary Public; State of Florida  
Print Name: \_\_\_\_\_