



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COUNCIL MEETING MARCH 23, 2021

**4:00 PM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118**

Upon being recognized, a member of the public shall proceed to the podium and give his or her name and address and may, thereafter, speak for a maximum of three minutes on any matter relevant to a specific agenda item. During "Audience Comments," a member of the public may speak on any matter relevant to City business which is not on the agenda, for a maximum of three minutes in accordance with Section 2-1.1(d) and 2-2 of the City Code. In accordance with Section 2-2, during periods set aside for public discussion any person desiring to speak shall secure a form located at the agenda table, complete the form and present it to the City Clerk so the speaker can be recognized by the presiding officer. The use of profanity, obscene language, threats or any violent or abusive conduct by any person shall constitute a violation of this section. It shall be the duty of the Director of Public Safety, upon the order of the presiding officer at any such meeting, to forcibly, if necessary, evict any person violating the provisions of this section from the Council Meeting Hall. Any such violation shall subject the offender, upon conviction thereof, to a fine and/or imprisonment as prescribed by Section 1-8.

1. CALL TO ORDER BY MAYOR

2. ROLL CALL BY CITY CLERK

3. NEW BUSINESS:

A. Economic Development Incentives Workshop

4. ADJOURNMENT:

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN

ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF DAYTONA BEACH SHORES, 2990 S. ATLANTIC AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118, TELEPHONE NUMBER 386-7635364, CSCHWAB@CITYOFDBS.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 711 or 1 8009558771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.



CITY COUNCIL AGENDA MEMORANDUM

MARCH 23, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Nancy Maddox, Recreation Director
PREPARED BY: Nancy Maddox, Recreation Director
SUBJECT: Economic Development Incentives Workshop

SYNOPSIS:

In July 2019, the Daytona Beach Shores City Council unanimously approved Ordinance 2019-06 and updated the Lease Subsidy portion in Ordinance 2021-01. The purpose of incentives and targeted area is succinctly defined and there are some areas that are a little too vague. There are three issues in which City staff would like some direction from City Council on how to proceed. 1. Identify types of business to target for economic development program funding. 2. Clearer direction on the Economic Development Land Purchase Program (LPP). 3. Clearer directions on the Alternative Tax Relief (ATR) program.

ISSUE #1

Below is the list of desired businesses defined by citizens and the City Council in July 2019. City staff would like direction from City Council on if this list is still a good sample of what the Council would like to target for economic development program funding or has it changed. The current list of targeted types of business are:

- Boutique shops
- Restaurants, e.g. steakhouse
- Entertainment venues
- Seafood market
- Physician Offices
- Music, arts, bookstores
- Car wash
- Ice Cream
- Outdoor Cafes
- Bait and Tackle
- Any other business substantially satisfying the program's evaluation criteria and approved by the City Council as a desired business.

ISSUE #2

Currently the Economic Development Land Purchase Program was created to encourage the renovation, development, redevelopment and productive use of lands and buildings within the City. The City Council may enter development agreements, which may relate to either City-owned

property or non-City-owned real property. The City shall impose conditions in each development to prevent a buyer purchasing City-owned real property from holding the real property for investment purposes or implementing a flip of the real property.

Purchaser of the land may receive a grant of up to a 10% of the purchase price to allow: (1) the purchaser of a City owned real property to use the funds to assist in the development of the real property or (2) the purchaser of a non-City owned real property to use the funds to assist in the build out of the real property.

Staff would like a clearer direction on when the applicant would receive the funding. Currently it is at closing to assist the purchaser in the development/build out of the real property. There have been suggestions that this should change to where the participant should receive the reimbursement when the applicant receives the Certificate of Occupation and BTR from the building department and business is open.

Another issue is 10% of a purchase price has the potential to completely deplete the remaining economic development funding that is currently in the trust fund. Staff requests City Council to consider capping the dollar amount of how much the applicant may receive, e.g. not to exceed \$100,000.

Lastly, staff would like the City Council to consider a lien option.

ISSUE #3

The Alternative Tax Relief (ATR) does not have any structure for staff to confidently tell a developer/investor what the benefits of the ATR would be for them without knowing any parameters. Is it the Council's goal to offer the ATR to builders/corporations to build hotels, condominiums, or duplexes? Are there any other types of projects would Council consider eligible for ATR?

How long would Council deem acceptable to offer on a project? Is Council agreeable to offering an ATR for 10 – 20 years depending upon the project? What are examples that would be acceptable for 10 years, 15 years or 20 years?

Staff is seeking clarification of terms for the ATR.

FISCAL IMPACT STATEMENT:

This is a budgeted expenditure.

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

Staff is requesting Council direction.

SUGGESTED MOTION:

ATTACHMENT: 1. econ workshop docs

ORDINANCE 2021-01

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO A COMPREHENSIVE ECONOMIC DEVELOPMENT PROGRAM; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; AMENDING THE REQUIREMENTS TO RECEIVE A GRANT; ELIMINATING CERTAIN GRANT PROGRAMS; MAKING MINOR AND TECHNICAL AMENDMENTS; MAKING FINDINGS; PROVIDING FOR CONFLICTS, SEVERABILITY; CODIFICATION AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Daytona Beach Shores (“City Council”) is the elected collegial body that is the legislative arm of the City of Daytona Beach Shores (“City”); and

WHEREAS, the City Council of the City of Daytona Beach Shores desires to ensure that the City and its environs are desirable for economic development of a positive nature for the benefit of the citizens of the City; and

WHEREAS, economic development programs are consistent with state statutes, including, but not limited to, sections 166.021 and 187.201, Florida Statutes, as well as the goals, objectives, and policies set forth in the City’s comprehensive plan; and

WHEREAS, the City Council has long recognized the economic challenges relating to the west side of State Road A1A (South Atlantic Avenue) which is a north-south Florida State Road that runs along the Atlantic Ocean, from Key West to Fernandina Beach and which is the main road through most oceanfront towns such as the City; and

WHEREAS, the City Council desires, to a significant, but not exclusive, extent to focus on the economic challenges relating to the west side of State Road A1A (South Atlantic Avenue); and

WHEREAS, the City Council desires to protect the public health, safety, and welfare of the citizens of the City and maintain a high quality of life for the citizens of the City; and

WHEREAS, the City Council hereby finds and determines that the provisions of this Ordinance provide for public benefits and serve public purposes; and

WHEREAS, this ordinance is enacted pursuant to the home rule powers of the City as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*, Chapter 163, *Florida Statutes*, Chapter 166, *Florida Statutes*, and other applicable and controlling law; and

WHEREAS, the City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY

Ord. 2021-01

Page 1 of 6

OF DAYTONA BEACH SHORES, FLORIDA THAT:

SECTION ONE: LEGISLATIVE FINDINGS AND INTENT.

The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance, and finds that same reflect the legislative intent of this Ordinance, and the same are hereby adopted, ratified, and affirmed.

SECTION TWO: ADOPTION.

The City Council of the City of Daytona Beach Shores hereby amends the *Code of Ordinances of the City of Daytona Beach Shores*, Chapter 10, entitled "Economic Development," Article II, entitled "Economic Development Program" as follows:

CHAPTER 10 – ECONOMIC DEVELOPMENT

ARTICLE II – ECONOMIC DEVELOPMENT PROGRAM

Sec. 10-13. – Creation of economic development commercial lease subsidy program; responsibilities; policies, procedures, ~~alternative grant program.~~

- (a) The City Council of the City of Daytona Beach Shores hereby creates and establishes the "City of Daytona Beach Shores Economic Development Commercial Lease Subsidy Program" as well as programs that are of a similar nature.
- (b) The purpose of the program is to encourage the ~~renovation and~~ development and productive use of properties and buildings in the City of Daytona Beach Shores ~~including, but not limited to, the expansion of existing tenancies,~~ as solely and exclusively determined by the city council based upon the economic development needs of the city as determined by the city council. The program will assist business owners to develop or redevelop properties. The program will provide a subsidy, under appropriate circumstances, to subsidize leases relating to new businesses within the city over a 3-year period of time in order to assist selected businesses to commence economic activity and remain a going concern. Leases may be subsidized up to 30 percent for the first year of the lease, up to 20 percent for the second year of the lease, and up to 10 ~~ten~~ percent for the third year of the lease; provided, however, that the total amount of the incentive under an agreement shall not exceed \$20,000.00. Existing businesses which desire to relocate to a larger space in the city which relocation will result in enhanced business operations or employment and businesses which extend a lease for a longer term of at least three years when the extension will result in enhanced business operations or employment shall also be eligible for the same benefits. Applications may be submitted and shall be evaluated in accordance with the application process set forth in this ordinance. Generally, incentive grants

made under this program shall be based upon the number of new jobs created, the desirability of the type of business for the city and the capital investment to be made.

- (c) Only real property that is assigned and will be used as a commercial, or similar, zoning classification consistent with the city's comprehensive plan and that will be used for a nonresidential or mixed use purpose (as set forth in a binding grant agreement, planned unit development, development agreement, or development order) are eligible under the program for lease subsidy assistance. Hotels are not eligible for lease subsidies under the terms of the lease subsidy program.
- (d) Lease subsidies may be made only to, or for the benefit of, a tenant of a leased property that is not subject to an active code enforcement case and may only be used for development of and renovations to real property or lease payments as determined by the city council. Development of real property shall include the physical construction and improvement, of a permanent nature, to real property. Equipment, replaceable fixtures, and cleaning or other maintenance services, as determined by the City Council, do not qualify as development under the terms of the lease subsidy program.
- (e) Normative lease underwriting criteria and documentation must be satisfied as part of the transaction to protect the city's interests, as determined under the authority and guidance of the finance director ~~in conjunction with the city attorney.~~
- (f) Should the grantee cease conducting business on the real property during the term of the lease subsidy; or should the property become subject to a finding of a violation of the city code by the special magistrate for code enforcement, the city's subsidy payments shall cease.
- (g) The city shall not in any way guarantee any underlying loan or the lease relating to real property and the city does not pledge its full faith and credit to any extent by enacting or implementing this ordinance and shall not be deemed to have done so to any degree or extent or to be a partner or co-venturer in any way.
- (h) The lease subsidy applicant must submit ~~documentation to the city~~ a business plan and documentation detailing the proposed development ~~or renovation~~ to be performed on the real property as well as details concerning the proposed lease and business activities. If approved by the city council, the city will then enter into a lease subsidy agreement ~~issue a letter approving the subsidy subject to normal underwriting criteria as determined under the authority and guidance of the finance director in conjunction with the city attorney.~~
- (i) Once the lease subsidy is approved, the applicant must submit full details of the proposed transaction to the city. The amount of the subsidy will then be fixed and the funds will be encumbered and appropriately released from time-to-time. Escrow accounts may be established in conjunction within city accounting systems or under the finance director ~~with the city attorney as needed.~~

- (j) The lease subsidy documents shall include, but not be limited to, documents to be filed of record which protect the interests of the city and shall provide that the city manager must be notified should the real property which is the subject of the lease be sold, transferred, assigned, or encumbered in any way or if the lease is terminated or sought to be terminated.
- ~~(k) In the event that an owner of real property which would be otherwise eligible for lease subsidy funding has engaged in or entered a business relationship in a manner which the city determines is not conducive to a lease subsidy being granted by the city, the city may enter grant agreements with such applicants such as, by way of example only, facade or beautification grant agreements; provided that the city is attaining substantially or more of the same economic and other benefits that are substantially the same or greater than that the city would enjoy under a lease subsidy award. Such grants may be awarded under conditions that address the unique nature of the business arrangement within which context the real property is held or the business operated while substantially addressing legal requirements, benefits to the city and the purposes expressed, and protections afforded, the city as set forth in this ordinance; provided, however, that the total amount of the grant under an agreement shall not exceed \$20,000.00.~~
- (4) (k) The city council shall evaluate applications on the basis of such criteria as it deems appropriate and in the best interests of the city to include, but not be limited to, the following:
1. Businesses that due to their success will attract other businesses to the city ~~shall be encouraged to apply and participate.;~~
 2. ~~Renovation and~~ development projects that will spur additional development and private investment ~~shall be encouraged to apply and participate.;~~
 3. ~~Renovation and~~ development projects that will attract desirable new businesses and create an effective merchandise mix ~~shall be encouraged to apply and participate.;~~
 4. ~~Renovation and~~ development projects that will have a substantial positive visual and aesthetic impact to the city ~~shall be encouraged to apply and participate.;~~
 5. ~~Renovation and~~ development projects that will result in filling vacant retail space ~~shall be encouraged to apply and participate.;~~
 6. ~~Renovation and~~ development projects that will increase real property value(s) ~~shall be encouraged to apply and participate.;~~
 7. ~~Renovation and~~ development projects that will increase employment opportunities within the city ~~shall be encouraged to apply and participate.;~~ and
 8. ~~Renovation and~~ development projects that work in favorable concert with other development within the city by providing enhanced activities for the city ~~shall be encouraged to apply and participate.~~

Sec. 10-14. – ~~Creation of business loyalty program.~~

~~The owner of a business that has been in good standing with the city for at least three consecutive years by (1) timely paying its certificate of use fee, (2) timely paying any local business tax due, and (3) not having been found to have violated a city code or ordinance; shall be entitled, upon application filed with the city, to a waiver of 50 percent its certificate of use fee amount that was paid and the payments made for the local business tax for an up to 3 year period after the period of good standing. This section shall not apply to businesses that relate to hotel, motels, condominiums, home occupations or like businesses. In order to be eligible for the award under this section, a business owner must annually file an application with the city which, upon approval, shall entitle the business to the waiver; provided, however, that waivers shall be authorized commencing in 2022.~~

Sec. 10-15. – Implementing administrative actions.

- (a) The city manager ~~and his or her designees, city clerk and city attorney~~ are hereby authorized and directed to implement the provisions of this ordinance and to take any and all necessary administrative actions to bring into effect the purposes and provisions of this ordinance as such Charter officials may deem appropriate in their respective roles and functions under the city.
- (b) Without limiting the generality of the foregoing provision, the city manager is hereby directed to develop such other economic development initiatives as may be advisable and desirable and present those proposals to the city council for review and action which initiatives may include, but shall not be limited to, the revision of city land development regulations and the city's comprehensive plan that will encourage and incentivize high quality development and redevelopment within the city that addresses the needs of the city.
- ~~(c) The city manager shall also work with the city council to develop a citywide strategic plan to sustain the future of the city's economy which plan will outline the city's vision and mission and identify goals, strategies and tactics critical to improving business expansion, recruitment, retention and job creation in the city;~~
- (d) ~~(c)~~ The ~~city council and the~~ city manager ~~may~~ shall engage in relations and communications with other agencies and entities of government and from the private sector in an effort to receive grants, funding, and other benefits that will assist the economic development and redevelopment of the city.

SECTION THREE: 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 FOUR: CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION FIVE: CODIFICATION. Section Two of this ordinance shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and may be renumbered or relettered 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 to be consistent with the other sections of the *Code of Ordinances*.

SECTION SIX: EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

MICHAEL T. BOOKER, CITY MANAGER
Approved as to form and legality:

CHERI SCHWAB, CITY CLERK

JOHN CARY, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2021.

Adopted on second reading this _____ day of _____, 2021.

ORDINANCE 2019-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA RELATING TO A COMPREHENSIVE ECONOMIC DEVELOPMENT PROGRAM; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR ECONOMIC DEVELOPMENT ACTIVITIES SUCH AS GRANT AGREEMENTS, DEVELOPMENT AGREEMENTS AND A BUSINESS LOYALTY PROGRAM; PROVIDING FOR THE CREATION OF THE CITY OF DAYTONA BEACH SHORES ECONOMIC DEVELOPMENT PROGRAM TRUST FUND; PROVIDING FOR AN ARRAY OF IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida has the desire to ensure that the City of Daytona Beach Shores and its environs are desirable for economic development of a positive nature for the benefit of the citizens of the City of Daytona Beach Shores; and

WHEREAS, Section 166.021(8), *Florida Statutes*, provides as follows:

“(8) (a) The Legislature finds and declares that this state faces increasing competition from other states and other countries for the location and retention of private enterprises within its borders. Furthermore, the Legislature finds that there is a need to enhance and expand economic activity in the municipalities of this state by attracting and retaining manufacturing development, business enterprise management, and other activities conducive to economic promotion, in order to provide a stronger, more balanced, and stable economy in the state, to enhance and preserve purchasing power and employment opportunities for the residents of this state, and to improve the welfare and competitive position of the state. The Legislature declares that it is necessary and in the public interest to facilitate the growth and creation of business enterprises in the municipalities of the state.

(b) The governing body of a municipality may expend public funds to attract and retain business enterprises, and the use of public funds toward the achievement of such economic development goals constitutes a public purpose. The provisions of this chapter which confer powers and duties on the governing body of a municipality, including any powers not specifically prohibited by law which can be exercised by the governing body of a municipality, shall be liberally construed in order to effectively carry out the purposes of this subsection.

(c) For the purposes of this subsection, it constitutes a public purpose to expend public funds for economic development activities, including, but not limited to, developing or improving local infrastructure, issuing bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants, leasing or

conveying real property, and making grants to private enterprises for the expansion of businesses existing in the community or the attraction of new businesses to the community.

(d) A contract between the governing body of a municipality or other entity engaged in economic development activities on behalf of the municipality and an economic development agency must require the agency or entity receiving municipal funds to submit a report to the governing body of the municipality detailing how the municipal funds are spent and detailing the results of the economic development agency's or entity's efforts on behalf of the municipality. By January 15, 2011, and annually thereafter, the municipality shall file a copy of the report with the Office of Economic and Demographic Research and post a copy of the report on the municipality's website.

(e)1. By January 15, 2011, and annually thereafter, each municipality having annual revenues or expenditures greater than \$250,000 shall report to the Office of Economic and Demographic Research the economic development incentives in excess of \$25,000 given to any business during the municipality's previous fiscal year. The Office of Economic and Demographic Research shall compile the information from the municipalities into a report and provide the report to the President of the Senate, the Speaker of the House of Representatives, and the Department of Economic Opportunity. Economic development incentives include:

a. Direct financial incentives of monetary assistance provided to a business from the municipality or through an organization authorized by the municipality. Such incentives include, but are not limited to, grants, loans, equity investments, loan insurance and guarantees, and training subsidies.

b. Indirect incentives in the form of grants and loans provided to businesses and community organizations that provide support to businesses or promote business investment or development.

c. Fee-based or tax-based incentives, including, but not limited to, credits, refunds, exemptions, and property tax abatement or assessment reductions.

d. Below-market rate leases or deeds for real property.

2. A municipality shall report its economic development incentives in the format specified by the Office of Economic and Demographic Research.

3. The Office of Economic and Demographic Research shall compile the economic development incentives provided by each municipality in a manner that shows the total of each class of economic development incentives provided by each municipality and all municipalities.

(f) This subsection does not limit the home rule powers granted by the State Constitution to municipalities."

; and

WHEREAS, Section 187.201(21), *Florida Statutes*, (part of the *State Comprehensive Plan*) provides as follows:

“(21) THE ECONOMY.--

(a) Goal. --Florida shall promote an economic climate which provides economic stability, maximizes job opportunities, and increases per capita income for its residents.

(b) *Policies.*--

1. Attract new job-producing industries, corporate headquarters, distribution and service centers, regional offices, and research and development facilities to provide quality employment for the residents of Florida.
2. Promote entrepreneurship and small and minority-owned business startup by providing technical and information resources, facilitating capital formation, and removing regulatory restraints which are unnecessary for the protection of consumers and society.
3. Maintain, as one of the state's primary economic assets, the environment, including clean air and water, beaches, forests, historic landmarks, and agricultural and natural resources.
4. Strengthen Florida's position in the world economy through attracting foreign investment and promoting international banking and trade.
5. Build on the state's attractiveness to make it a leader in the visual and performing arts and in all phases of film, television, and recording production.
6. Promote economic development for Florida residents through partnerships among education, business, industry, agriculture, and the arts.
7. Provide increased opportunities for training Florida's workforce to provide skilled employees for new and expanding business.
8. Promote economic self-sufficiency through training and educational programs which result in productive employment.
9. Promote cooperative employment arrangements between private employers and public sector employment efforts to provide productive, permanent employment opportunities for public assistance recipients through provisions of education opportunities, tax incentives, and employment training.
10. Provide for nondiscriminatory employment opportunities.
11. Provide quality child day care for public assistance families and others who need it in order to work.
12. Encourage the development of a business climate that provides opportunities for the growth and expansion of existing state industries, particularly those industries which are compatible with Florida's environment.
13. Promote coordination among Florida's ports to increase their utilization.
14. Encourage the full utilization by businesses of the economic development enhancement programs implemented by the Legislature for the purpose of extensively involving private businesses in the development and expansion of permanent job opportunities, especially for the economically disadvantaged, through the utilization of enterprise zones, community development corporations, and other programs designed to enhance economic and employment opportunities.”

; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida desires that the economy of the City of Daytona Beach Shores be one that is vibrant, creative, flexible, dynamic, and modern as well as an economy that attracts and retains high quality businesses and economic generators to the City of Daytona Beach Shores; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida has long recognized the economic challenges relating to the west (non-oceanfront) side of State Road A1A (South Atlantic Avenue) which is a north-south Florida State Road that runs along the Atlantic Ocean, from Key West at the southern tip of Florida, to Fernandina Beach, just south of Georgia on Amelia Island and which is the main road through most oceanfront towns such as the City of Daytona Beach Shores; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida, desires, to a significant, but not exclusive, extent to focus on the economic challenges relating to the west side of State Road A1A (South Atlantic Avenue); and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida desires to protect the public health, safety and welfare of the citizens of the City and maintain a high quality of life for the citizens of the City; and

WHEREAS, the City Council of the City of Daytona Beach Shores hereby finds and determines that the provisions of this Ordinance provide for public benefits and serve public purposes; and

WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of Daytona Beach Shores as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*; Chapter 163, *Florida Statutes*; Chapter 166, *Florida Statutes*; and other applicable controlling law; and

WHEREAS, the City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, this Ordinance, although neither creating or amending land development regulations, is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of 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, as the legislative findings and intent of this Ordinance, the recitals (whereas clauses) to this Ordinance, the City staff report and City Council agenda memorandum relating this Ordinance.

(b). The City Council finds that attracting, retaining, and providing favorable conditions for the growth of businesses within targeted areas provides high quality employment opportunities for the citizens of the City of Daytona Beach Shores and enhances the economic tax base of the City. It is the policy of the City Council of the City of Daytona Beach Shores to encourage the growth of businesses that provide high-value-added employment and economic opportunities.

(c). There is a public need to enhance economic activity in specific targeted areas of the City of Daytona Beach Shores, as identified by the City Council. The economic well-being of the citizens of the City of Daytona Beach Shores and the economic resources of the City of Daytona Beach Shores would be enhanced by the provision and implementation of selected economic development activities.

(d). To improve the prosperity and welfare of the City of Daytona Beach Shores and its inhabitants, it is necessary and is in the public interest for the City Council to establish and implement selected economic development activities and programs.

(e). Nothing in this Ordinance shall require the City Council to fund any activity or programs established in this Ordinance or otherwise established by the City Council relative to the economic development activities of the City.

SECTION TWO: CREATION OF ECONOMIC DEVELOPMENT PROGRAM.

(a). The City Council of the City of Daytona Beach Shores hereby creates and establishes the City of Daytona Beach Shores Economic Development Program.

(b). The purpose of the Program is to encourage the renovation, development, redevelopment and productive use of lands and buildings within the City Limits of the City of Daytona Beach Shores.

(c). In order to implement the Program set forth in this Section, the City Council may enter development agreements, under the provisions of the *Florida Local Government Development Agreement Act* as set forth at Sections 163.3220 through Section 163.3243, *Florida Statutes*, or enter such other agreements as the City Council determines are intended to enhance the high quality economic development of the City of Daytona Beach Shores.

(d). The development agreements referenced in Subsection (c) of this Section, may relate to either City-owned or non-City-owned real property and may, among other things, provide for, by way of example and not limitation, provisions such as the City providing to the purchaser of City-owned real property an up to a 10% rebate of the purchase price to allow the purchaser to use the funds to assist in the development of the real property or, if the development agreement relates to non-City-owned real property, once the purchaser of the land applies to the City relative

to the purchase price of the land and closes on the real estate transaction, the City would provide up to a 10% grant to assist the new owner of the land in order to assist in the build out the real property in a high quality plan of development. The City shall impose conditions in each development to prevent a buyer purchasing City-owned real property from holding the real property for investment purposes or implementing a flip of the real property. The City's goal is that the real property shall be expeditiously developed in a high quality manner for the benefit of the citizens of the City.

SECTION THREE: CREATION OF CITY OF DAYTONA BEACH SHORES ECONOMIC DEVELOPMENT PROGRAM TRUST FUND.

(a). A City of Daytona Beach Shores Economic Development Program Trust Fund is hereby established, into which such revenues from such funding sources, as determined by the City Council, shall be deposited and from which all expenditures related to the City's Economic Development Program shall be paid.

(b). Accounting and reporting procedures shall be consistent with controlling State law and reported to the City Council by the City Manager, or designee, at least annually.

(c). Expenditures for activities that are not related to the City's Economic Development Program shall not be permitted from the Trust Fund.

SECTION FOUR: CREATION OF ECONOMIC DEVELOPMENT COMMERCIAL LEASE SUBSIDY PROGRAM; RESPONSIBILITIES; POLICIES; PROCEDURES; ALTERNATIVE GRANT PROGRAM.

(a). The City Council of the City of Daytona Beach Shores hereby creates and establishes the "City of Daytona Beach Shores Economic Development Commercial Lease Subsidy Program" as well as programs that are of a similar nature..

(b). The purpose of the Program is to encourage the renovation and development and productive use of properties and buildings in the City of Daytona Beach Shores including, but not limited to, the expansion of existing tenancies, as solely and exclusively determined by the City Council based upon the economic development needs of the City as determined by the City Council. The Program will assist business owners to develop or redevelop properties. The Program will provide a subsidy, under appropriate circumstances, to subsidize leases relating to new businesses within the City over a 3 year period of time in order to assist selected businesses to commence economic activity and remain a going concern. Leases may be subsidized up to 40% 30% for the first year of the lease, up to % 20% for the second year of the lease, and up to 30% 10% for the third year of the lease; provided, however, that the total amount of the incentive under an agreement shall not exceed \$20,000.00. Existing businesses which desire to relocate to a larger space in the City which relocation will result in enhanced business operations or employment and businesses which extend a lease for a longer term of at least 3 years when the extension will result in enhanced business operations or employment shall also be eligible for the same benefits. Applications may be submitted and shall be evaluated in accordance with the application process set forth in this Ordinance. Generally, incentive grants made under this program shall be based upon the number of new jobs created, the desirability of the type of business for the City and the capital investment to be made.

(c). Only real property that is assigned a commercial, or similar, zoning classification consistent with the City's *Comprehensive Plan* and that will be used for a nonresidential or mixed use purpose (as set forth in a binding development agreement or development order) are eligible under the Program for lease subsidy assistance.

(d). Lease subsidies may be made only to, or for the benefit of, a tenant and may only be used for development and renovations to real property or lease payments as determined by the City Council.

(e). Normative lease underwriting criteria and documentation must be satisfied as part of the transaction to protect the City's interests, as determined under the authority and guidance of the Finance Director in conjunction with the City Attorney.

(f). Should the grantee cease conducting business on the real property during the term of the lease subsidy; the City's subsidy payments shall cease.

(g). The City shall not in any way guarantee any underlying loan or the lease relating to real property and the City does not pledge its full faith and credit to any extent by enacting or implementing this Ordinance and shall not be deemed to have done so to any degree or extent or to be a partner or co-venturer in any way.

(h). The lease subsidy applicant must submit documentation to the City detailing the proposed development or renovation to be performed on the real property as well as details concerning the proposed lease and business activities. If approved by the City Council, the City will then issue a letter approving the subsidy subject to normal underwriting criteria as determined under the authority and guidance of the Finance Director in conjunction with the City Attorney.

(i). Once the lease subsidy is approved, the applicant must submit full details of the proposed transaction to the City. The amount of the subsidy will then be fixed and the funds will be encumbered and appropriately released from time-to-time. Escrow accounts may be established in conjunction within City accounting systems or under the Finance Director with the City Attorney as needed.

(j). The lease subsidy documents shall include, but not be limited to, documents to be filed of record which protect the interests of the City and shall provide that the City Manager must be notified should the real property which is the subject of the lease be sold, transferred, assigned or encumbered in any way or if the lease is terminated or sought to be terminated.

(k). In the event that an owner of real property which would be otherwise eligible for lease subsidy funding has engaged in or entered a business relationship in a manner which the City determines is not conducive to a lease subsidy being granted by the City, the City may enter grant agreements with such applicants such as, by way of example only, facade or beautification grant agreements; provided that the City is attaining substantially or more of the same economic and other benefits that are substantially the same or greater than that the City would enjoy under a lease subsidy award. Such grants may be awarded under conditions that address the unique nature of the business arrangement within which context the real property is held or the business operated while substantially addressing legal requirements, benefits to the City and the purposes expressed, and protections afforded, the City as set forth in this Ordinance; provided, however, that the total amount of the grant under an agreement shall not exceed \$20,000.00.

(l). The City Council shall evaluate applications on the basis of such criteria as it deems appropriate and in the best interests of the City to include, but not be limited to, the following:

(1). Businesses that due to their success will attract other businesses to the City shall be encouraged to apply and participate.

(2). Renovation and development projects that will spur additional development and private investment shall be encouraged to apply and participate.

(3). Renovation and development projects that will attract desirable new businesses and create an effective merchandise mix shall be encouraged to apply and participate.

(4). Renovation and development projects that will have a substantial positive visual and aesthetic impact to the City shall be encouraged to apply and participate.

(5). Renovation and development projects that will result in filling vacant retail space shall be encouraged to apply and participate.

(6). Renovation and development projects that will increase real property value(s) shall be encouraged to apply and participate.

(7). Renovation and development projects that will increase employment opportunities within the City shall be encouraged to apply and participate.

(8). Renovation and development projects that work in favorable concert with other development within the City by providing enhanced activities for the City shall be encouraged to apply and participate.

SECTION FIVE: CREATION OF BUSINESS LOYALTY PROGRAM.

The owner of a business that has been in good standing with the City for at least 3 consecutive years by (1). timely paying its certificate of use fee, (2). timely paying any local business tax due, and (3). not having been found to have violated a City code or ordinance; shall be entitled, upon application filed with the City, to a waiver of 50% its certificate of use fee amount that was paid and the payments made for the local business tax for an up to 3 year period after the period of good standing. This Section shall not apply to businesses that relate to hotel, motels,

condominiums, home occupations or like businesses. In order to be eligible for the award under this Section, a business owner must annually file an application with the City which, upon approval, shall entitle the business to the waiver; provided, however, that waivers shall be authorized commencing in 2022.

SECTION SIX: IMPLEMENTING ADMINISTRATIVE ACTIONS.

(a). The City Manager, City Clerk and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to bring into effect the purposes and provisions of this Ordinance as such Charter officials may deem appropriate in their respective roles and functions under the *City*.

(b). Without limiting the generality of the foregoing provision, the City Manager is hereby directed to develop such other economic development initiatives as may be advisable and desirable and present those proposals to the City Council for review and action which initiatives may include, but shall not be limited to, the revision of City land development regulations and the City's *Comprehensive Plan* that will encourage and incentivize high quality development and redevelopment within the City that addresses the needs of the City.

(c). The City Manager shall also work with the City Council to develop a Citywide strategic plan to sustain the future of the City's economy which plan will outline the City's vision and mission and identify goals, strategies and tactics critical to improving business expansion, recruitment, retention and job creation in the City:

(d). The City Council and the City Manager shall engage in relations and communications with other agencies and entities of government and from the private sector in an effort to receive grants, funding and other benefits that will assist the economic development and redevelopment of the City.

SECTION SEVEN: SAVINGS; EFFECT OF ORDINANCE.

The prior actions of the City of Daytona Beach Shores in terms of the matters relating to the economic development of the City of Daytona Beach Shores and any and all actions of the City of Daytona Beach Shores pertaining thereto, as well as any and all related matters and processes and procedures of the City of an associated nature, are hereby ratified and affirmed.

SECTION EIGHT: CODIFICATION; SCRIVENER'S ERRORS.

(a). The provisions of Sections One through Six of this Ordinance shall be codified while the remaining Sections shall not be codified; provided, however, that the Code codifier shall take all actions necessary to implement the codification of the provisions of this Ordinance.

(b). 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 NINE: CONFLICTS.

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

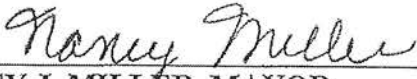
SECTION TEN: SEVERABILITY.

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 ELEVEN: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon enactment.

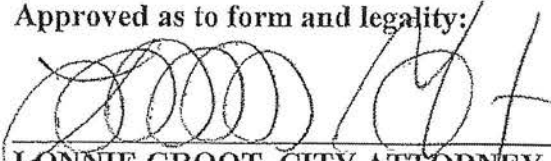
CITY OF DAYTONA BEACH SHORES, FLORIDA


NANCY J. MILLER, MAYOR


MICHAEL T. BOOKER, CITY MANAGER


CHERI SCHWAB, CITY CLERK

Approved as to form and legality:


LONNIE GROOT, CITY ATTORNEY

Passed on first reading the 25th day of June, 2019.

Passed on second reading the 9 day of July, 2019.

ORDINANCE 2019-08

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA ESTABLISHING THE CITY OF DAYTONA BEACH SHORES SUPPLEMENTAL ECONOMIC OR TOURISM DEVELOPMENT PROGRAM; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; 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, the City Council of the City of Daytona Beach Shores, Florida has the desire to ensure that the City of Daytona Beach Shores and its environs are desirable for economic or tourism development of a positive nature for the benefit of the citizens of the City of Daytona Beach Shores; and

WHEREAS, Section 166.021(8), *Florida Statutes*, provides as follows:

“(8) (a) The Legislature finds and declares that this state faces increasing competition from other states and other countries for the location and retention of private enterprises within its borders. Furthermore, the Legislature finds that there is a need to enhance and expand economic activity in the municipalities of this state by attracting and retaining manufacturing development, business enterprise management, and other activities conducive to economic promotion, in order to provide a stronger, more balanced, and stable economy in the state, to enhance and preserve purchasing power and employment opportunities for the residents of this state, and to improve the welfare and competitive position of the state. The Legislature declares that it is necessary and in the public interest to facilitate the growth and creation of business enterprises in the municipalities of the state.

(b) The governing body of a municipality may expend public funds to attract and retain business enterprises, and the use of public funds toward the achievement of such economic development goals constitutes a public purpose. The provisions of this chapter which confer powers and duties on the governing body of a municipality, including any powers not specifically prohibited by law which can be exercised by the governing body of a municipality, shall be liberally construed in order to effectively carry out the purposes of this subsection.

(c) For the purposes of this subsection, it constitutes a public purpose to expend public funds for economic development activities, including, but not limited to, developing or improving local infrastructure, issuing bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants, leasing or conveying real property, and making grants to private enterprises for the expansion

use existing infrastructure and to accommodate growth in an orderly, efficient, and environmentally acceptable manner, Florida shall encourage the centralization of commercial, governmental, retail, residential, and cultural activities within downtown areas.

(b) Policies.—

1. Provide incentives to encourage private sector investment in the preservation and enhancement of downtown areas.
2. Assist local governments in the planning, financing, and implementation of development efforts aimed at revitalizing distressed downtown areas.
3. Promote state programs and investments which encourage redevelopment of downtown areas.
4. Promote and encourage communities to engage in a redesign step to include public participation of members of the community in envisioning redevelopment goals and design of the community core before redevelopment.
5. Ensure that local governments have adequate flexibility to determine and address their urban priorities within the state urban policy.
6. Enhance the linkages between land use, water use, and transportation planning in state, regional, and local plans for current and future designated urban areas.
7. Develop concurrency requirements that do not compromise public health and safety for urban areas that promote redevelopment efforts.
8. Promote processes for the state, general purpose local governments, school boards, and local community colleges to coordinate and cooperate regarding educational facilities in urban areas, including planning functions, the development of joint facilities, and the reuse of existing buildings.
9. Encourage the development of mass transit systems for urban centers, including multimodal transportation feeder systems, as a priority of local, metropolitan, regional, and state transportation planning.
10. Locate appropriate public facilities within urban centers to demonstrate public commitment to the centers and to encourage private sector development.
11. Integrate state programs that have been developed to promote economic development and neighborhood revitalization through incentives to promote the development of designated urban infill areas.
12. Promote infill development and redevelopment as an important mechanism to revitalize and sustain urban centers.”

; and

WHEREAS, Section 187.201(21), *Florida Statutes*, (part of the *State Comprehensive Plan*) provides as follows:

“(21) THE ECONOMY.--

(23) TOURISM.—

(a) Goal.—Florida will attract at least 55 million tourists annually by 1995 and shall support efforts by all areas of the state wishing to develop or expand tourist-related economies.

(b) Policies.—

1. Promote statewide tourism and support promotional efforts in those parts of the state that desire to attract visitors.
2. Acquire and manage public lands to offer visitors and residents increased outdoor experiences.
3. Promote awareness of historic places and cultural and historical activities.

; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida desires that the economy of the City of Daytona Beach Shores be one that is vibrant, creative, flexible, dynamic, and modern as well as an economy that attracts and retains high quality businesses and economic generators to the City of Daytona Beach Shores; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida desires to protect the public health, safety and welfare of the citizens of the City and maintain a high quality of life for the citizens of the City; and

WHEREAS, the City Council of the City of Daytona Beach Shores hereby finds and determines that the provisions of this Ordinance provide for public benefits and serve public purposes; and

WHEREAS, this Ordinance, although neither creating or amending land development regulations, is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Daytona Beach Shores*; and

WHEREAS, the City Council of the City of Daytona Beach Shores, as the governing body of the City, through the adoption of its *Comprehensive Plan* and other adopted documents, has established as a matter of policy that fostering the revitalization and redevelopment of the City's "Incentive Area," as further defined in this Ordinance, brings about positive economic,

(c). Increased tourism and commercial activity within the Incentive Area and the City as a whole; and

(d). The improvement of the character of the City by preserving existing buildings within the Incentive Area or promoting the construction of new buildings that are compatible with the desired character of the City.

; and

WHEREAS, the Incentives, as provided for in an Incentive Agreement (as defined in this Ordinance), shall be structured in such a way that the value of the Benefits to the City will exceed their value to the Incentive Recipients; and

WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of Daytona Beach Shores as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*; Chapter 163, *Florida Statutes*; Chapter 166, *Florida Statutes*; and other applicable controlling law; and

WHEREAS, the City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

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

SECTION ONE: LEGISLATIVE FINDINGS AND INTENT. The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) set forth herein as the legislative and administrative findings and intent of the City Council which, together with the agenda materials, memorandum and staff reports, to the extent that they exist, shall be maintained consistent with the maintenance schedule for ordinances, as public records of the City.

SECTION TWO: SUPPLEMENTAL ECONOMIC OR TOURISM DEVELOPMENT PROGRAM. The City Council of the City of Daytona Beach Shores hereby enacts the following

which adopts the definition set forth in Section 380.04, *Florida Statutes*,¹ shall be applicable to the

¹ The referenced definition of development reads as follows; provided, however, that the reference to this statutory definition shall not be deemed to expand any permitted or other uses as set forth in the City's *Land Development Code*:

- (1) The term "development" means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.
- (2) The following activities or uses shall be taken for the purposes of this chapter to involve "development," as defined in this section:
 - (a) A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.
 - (b) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.
 - (c) Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction" as defined in s. 161.021.
 - (d) Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.
 - (e) Demolition of a structure.
 - (f) Clearing of land as an adjunct of construction.
 - (g) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.
- (3) The following operations or uses shall not be taken for the purpose of this chapter to involve "development" as defined in this section:
 - (a) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.
 - (b) Work by any utility and other persons engaged in the distribution or transmission of gas, electricity, or water, for the purpose of inspecting, repairing, or renewing on established rights-of-way or corridors, or constructing on established or to-be-established rights-of-way or corridors, any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like. This provision conveys no property interest and does not eliminate any applicable notice requirements to affected land owners.
 - (c) Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.
 - (d) The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.
 - (e) The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes.
 - (f) A change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the same class.
 - (g) A change in the ownership or form of ownership of any parcel or structure.
 - (h) The creation or termination of rights of access, riparian rights, easements, distribution and transmission corridors, covenants concerning development of land, or other rights in land.
- (4) "Development," as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of subsection (1).

Incentive Area shall be considered.

(b). In addition to the definitions set forth in Subsection (a) of this Section, the definitions provided in the *City Code* and the *Florida Statutes* shall be applicable if the context so requires.

General Principles Relating To Award Of Grant Incentives.

(a). The City Council, at its discretion and on a case-by-case basis, subject to the provisions of this Ordinance, may enter into an Incentive Agreement with a person, firm, or corporation providing for Incentives in order to encourage and support the Development of real property within the Incentive Area.

(b). The Incentives shall only be provided to an Incentive Recipient after an agreement has been entered into between the City and such person, firm, or corporation, as approved by the City Attorney, which agreement shall set forth: the particulars of the Development; the Incentives to be provided; and sufficient assurances that the Benefits will accrue to the City and the Goals set forth in this Ordinance will be met by the Development (an "Incentive Agreement"). Pending the approval by the City Council of any Incentive Agreement, subject to the provisions of this Ordinance, the City Manager shall discuss the provisions of this Ordinance, aid in the completion of any Proposal and, subject to the final approval by the City Council, negotiate with the potential Incentive Recipient on behalf of the City. Each Incentive Agreement shall be approved by the City Council by adoption of a resolution. The City Council may provide Incentives in any amounts and for any periods of time.

Authorized Incentives.

(a). The City Council may provide to an Incentive Recipient any combination of Incentives provided for herein; provided, however, that the total amount of Incentives given to a Development must be in keeping with the Goals set forth in this Ordinance and the value of the Benefits accruing to the City and its citizens must be greater than the financial value of the Incentives to an Incentive

Code, as well as the Goals set forth in this Ordinance.

- (2). Absent the provision of Incentives, the Development would be unlikely to occur or unlikely to occur at the level or scale contemplated by the developer.
- (3). The Development must be located within the Incentive Area.
- (4). The Development must have:
 - (A). Real property acquisition costs of a significant type or nature, or
 - (B). Significant costs of physical improvements to real property, or
 - (C). Significant costs of capital improvements to City infrastructure; or
 - (D). On a case-by-case basis, any other eligibility criteria that must be met upon completion of a Development in order to ensure that the Goals set forth in this Ordinance are met and that the Development provides Benefits to the City (and its citizens) in amounts that warrant the implementation of Incentives.
- (b). The provisions of this Ordinance shall be implemented by the City Council of the City of Daytona Beach Shores as it deems appropriate for the benefit of the citizens of the City on a case-by-case basis and, to that end, there shall be no entitlement to an award to any person or entity under the provisions of this Ordinance regardless of the purported attainment of criteria or any matter of like nature.

Disqualification for Incentives.

- (a). No business and no successor or affiliated business entity having one or more of the same principals and substantially the same business activity may cease business operations in the name of one business and then resume business operations in another name if the effect of such resumption is to circumvent the provisions of this Ordinance or to prolong an Incentive which has been granted.
- (b). A business which is the subject of a code enforcement proceeding or which has an unpaid

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 EIGHT: EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY J. MILLER, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

LONNIE GROOT, CITY ATTORNEY

Passed on first reading this __ day of _____, 2019.

Adopted on second reading this __ day of _____, 2019.