

The City of Daytona Beach
AGENDA SUMMARY
July 2, 2025 - City Commission



TITLE: Growth Management & Planning Department - Standards for Specific Principal Uses - Land Development Code Text Amendment DEV2025-299
DEPARTMENT: Planning Department
STAFF CONTACT: Dennis Mrozek, Planning Director
ACTION: Ordinance - Introduction on first reading

Business Impact Statement Required: Yes

Second Meeting Date: July 16, 2025

REQUEST:

Introduction of Ordinance on first reading to amend Sections 5.2.B.18 & 5.2.B.24 of the Land Development Code (LDC) to clarify kitchen equipment requirements for establishments serving alcohol and to remove prohibitions for advertising and signage allowances for hotel or motel accessory uses. Applicant: Growth Management and Planning Department, Planning Division.

Action: Commission comments and questions only.

Note: Public Hearing and final action on July 16, 2025.

CONSIDERATION/BACKGROUND:

Staff is proposing two separate amendments to the Land Development Code (LDC). Both changes address requirements found in the Standards for Specific Principal Uses in the LDC.

The first proposed change to Section 5.2.B.18 would clarify the types of kitchen equipment required for restaurants and specialty eating or drinking establishments that serve alcohol. The current code requires all restaurants and specialty eating or drinking establishments to install an oven or stove with hood and a fire suppression system regardless of the types of food served in the restaurant. Not all food preparation techniques require this type of equipment. This LDC requirement to install unnecessary kitchen equipment creates a hardship on local businesses.

After the May 22 Planning Board meeting, City staff from the Permits & Licensing Department suggested the terms "**ovens and stoves**" be replaced with the more general and inclusive term, "**commercial cooking appliances**". The proposed LDC text change would not require specific commercial cooking appliances unless needed by the type of restaurant. Hoods and fire suppression systems would still be required based on Florida Building Code standards.

The second proposed change is to Section 5.2.B.24. of the LDC. Current LDC regulations prohibit outside advertising or signage for accessory uses to a hotel or motel, even when the accessory use

is an allowable use in the zoning district. Staff is proposing to remove the prohibition of outside advertising or signage for accessory uses to a hotel or motel because the restriction may violate individual rights protected under the US Constitution and are not likely enforceable under the standards set forth in the United States Supreme Court decision in Reed v. Town of Gilbert, 576 U.S. 155 (2015). This proposed LDC change would prevent challenges to the prohibition brought against the City, which could potentially expose the City to the risk of an award of attorney's fees.

RECOMMENDATION:

At the May 22, 2025 Planning Board meeting the Board recommended approval of the request 7-to-0. Staff supports the Planning Board's recommendation to the City Commission.

ATTACHMENTS:

[Summary of Board Action](#)

[Staff Report - Standard for Specific Principal Use LDC Text Amend](#)

[Excerpt Minutes](#)

[BIS for compliance](#)

Dennis Mrozek, Planning Director

David Russell, Assistant City Attorney

Benjamin Gross, City Attorney

Kathleen Rosado, Assistant City Clerk

Deric C. Feacher, City Manager

Approved - Jun 17 2025

Approved - Jun 18 2025

Approved - Jun 24 2025

Approved - Jun 20 2025

Approved - Jun 25 2025

Growth Management & Planning Department Summary of Board Action

Project: Standards for Specific Principal Uses - Land Development Code Text Amendment DEV2025-299

| <u>Board</u> | <u>Date of Action</u> | <u>Recommendation</u> |
|---------------------|------------------------------|------------------------------|
| Planning Board | May 22, 2025 | Recommended Approval 7-to-0 |

Agenda Item 4.E. (Legislative Hearing)

LDC Text Amendments – Standards for Specific Principal Uses
DEV2025-299
Amending Sections 5.2.B.18 & 5.2.B.24 of the LDC

STAFF REPORT

DATE: May 12, 2025

TO: Planning Board Members

FROM: Dennis Mrozek, AICP, Planning Director

AMENDMENT REQUEST

A request by the Growth Management and Planning Department, Planning Division, to amend Sections 5.2.B.18 & 5.2.B.24 of the Land Development Code (LDC) to clarify kitchen equipment requirements for establishments serving alcohol and to remove prohibitions for advertising and signage allowances for hotel or motel accessory uses.

BACKGROUND

Staff is proposing two separate amendments to the Land Development Code (LDC). Both changes address requirements found in the *Standards for Specific Principal Uses* in the LDC.

The first proposed change to Section 5.2.B.18 would clarify the types of kitchen equipment required for restaurants and specialty eating or drinking establishments that serve alcohol. The current code requires all restaurants and specialty eating or drinking establishments to install an oven or stove with hood and a fire suppression system regardless of the types of food served in the restaurant. Not all food preparation techniques require this type of equipment. This LDC requirement to install unnecessary kitchen equipment creates a hardship on local businesses. The proposed LDC text change would not require an oven or stove unless needed by the restaurant. Hoods and fire suppression systems would be required based on Florida Building Code standards.

The second proposed change is to Section 5.2.B.24. of the LDC. Current LDC regulations prohibit outside advertising or signage for accessory uses to a hotel or motel, even when the accessory use is an allowable use in the zoning district. Staff is proposing to remove the prohibition of outside advertising or signage for accessory uses to a hotel or motel because the restriction may violate individual rights protected under the US Constitution and are not likely enforceable under the standards set forth in the United States Supreme Court decision in *Reed v. Town of Gilbert*, 576 U.S. 155 (2015). This proposed LDC change would prevent challenges to the prohibition brought against the City which could potentially expose the City to the risk of an award of an attorney's fees.

PROPOSED LDC TEXT AMENDMENT

Staff is requesting to amend Sections 5.2.B.18 & 5.2.B.24 of the Land Development Code, as shown in the text below. The following proposed change to the LDC are shown below in underline and ~~striketrough~~ format from current LDC regulations.

1. Section 5.2.B.18 - Commercial: Eating and Drinking Establishments

[omitted text not affected by this amendment]

b. Restaurants and Specialty Eating or Drinking Establishments with Alcohol Sales and Service.

i. All restaurants or specialty eating or drinking establishments offering sales or service of alcoholic beverages shall comply with the standards in Section 6.21, Alcoholic Beverages, in addition to all applicable standards set forth in this Section 5.2.B.18.b—f.

ii. A restaurant or specialty eating or drinking establishment offering sales or service of alcoholic beverages shall comply with the following standards:

(a) Alcoholic beverage sales and service shall be for on-premise consumption only.

(b) The establishment shall contain a full-service, operational kitchen used for cooking and preparing food, including a commercial refrigerator, and freezer, When installed as part of a commercial kitchen, and ovens or and stoves are required to include with a hood, and fire suppression system in accordance with Florida Building Code standards.

(c) Alcoholic beverages may be sold or served only when the kitchen is open, or has closed within one hour of the establishment's closing, and prepared food is available to patrons.

(d) Any separate bar or lounge area shall occupy no more than 25 percent of the total floor area of the establishment (excluding the kitchen, restrooms, storage areas, and utility areas).

(e) Any take-out service shall be entirely incidental to the establishment's primary sit-down use.

(f) The establishment shall have permanent seating arrangements (with at least 36 inches of separation between dining tables) that accommodate at least 50 patrons.

(g) No dance floor is permitted.

(h) Any live entertainment within the establishment shall:

(1) Be limited to a single contiguous area of no more than 100 square feet;

(2) Occur only between the hours of 11:00 a.m. and 11:00 p.m.; and

(3) Involve no cover charge.

(i) At least 51 percent of gross sales shall be derived from sales of food and nonalcoholic beverages; and the business operator shall keep separate records accurately distinguishing between sales of alcohol and other items, and the records shall be available for inspection by the City.

iii. A restaurant or specialty eating or drinking establishment located and permitted in an RDB-2, RDB-3, or RDB-5 district may sell or serve alcoholic beverages either pursuant to Section 5.2.B.18.b.ii or the following standards:

(a) Alcoholic beverage sales and service shall be for on-premise consumption only.

(b) The establishment shall contain a full-service, operational kitchen used for cooking and preparing food, including a commercial refrigerator, and freezer, When installed as part of a commercial kitchen, and ovens or and stoves are required to include with a hood, and fire suppression system in accordance with Florida Building Code standards.

€ The kitchen must remain open and food must be available to patrons at all times up until one hour before closing time.

(d) The establishment shall be open to customers at least six hours a day, and 250 days a calendar year.

€ The establishment shall contain or be part of a development containing a mixed-use component such as a retail outlet, amusement enterprise, or live entertainment area that:

(1) Occupies at least 25 percent of the total indoor floor area of the development (excluding kitchens, restrooms, storage areas, and utility areas); and

(2) Is arranged and oriented to increase pedestrian level interest along the development's primary street frontage.

iv. Any restaurant or specialty eating or drinking establishment located and permitted in an RDD-1 or RDD-2 district may sell or serve alcoholic beverages either pursuant to Section 5.2.B.18.b.ii or the following standards:

(a) The establishment shall contain a full-service, operational kitchen used for cooking and preparing food, including a commercial refrigerator, and freezer, When installed as part of a commercial kitchen, and ovens or and stoves are required to include with a hood, and fire suppression system in accordance with Florida Building Code standards.

(b) The kitchen must remain open and food must be available to patrons at all times up until one hour before closing time.

(c) Alcoholic beverages shall not be sold after midnight on Sunday through Thursday nights, or after 2:00 a.m. in the early morning following Friday and Saturday nights.

(d) Permanent seating arrangements shall cover at least 75 percent of the customer service area during all hours of operation.

(e) The establishment may have live entertainment provided entertainment ceases by 10:00 p.m. on Sunday through Thursday nights, and by midnight on Friday and Saturday nights.

(f) Alcoholic beverage sales and service shall be for on-premise consumption only.

[omitted text not affected by this amendment]

2. Section 5.2.B.24 - Commercial: Visitor Accommodation Uses.

[omitted text not affected by this amendment]

b. *Hotel or Motel.* A hotel or motel shall comply with the following standards:

i. *Prohibited in Part of South Atlantic Redevelopment Area.* Irrespective of the districts in which hotels or motels are shown as allowed by the use tables in Section 5.2.A, Principal Use Tables, they shall be prohibited on those lots in the South Atlantic Redevelopment Area that abut the west side of Atlantic Avenue or the south side of International Speedway Boulevard.

ii. *Accessory Uses.*

(a) *General Standards.* Except as expressly provided otherwise, the following standards shall apply to all accessory uses to a hotel or motel:

(1) No more than 20 percent of the gross floor area of a hotel or motel may be devoted to accessory uses.

(2) The accessory use shall be designed to primarily serve hotel or motel guests.

(3) The accessory use shall be located within the principal building of the hotel/motel development and accessible only from an interior court, lobby, corridor, or pool deck.

(4) ~~There shall be no outside advertising or signage for the use.~~

(5) If the accessory use involves the sale of alcoholic beverages for on-premise consumption, it shall comply with the standards in Section 6.21, Alcoholic Beverages, and the use specific standards in Section 5.2.B, Standards for Specific Principal Uses.

[omitted text not affected by this amendment]

TEXT AMENDMENT REVIEW STANDARDS

The purpose of a Text Amendment, as provided in Section 3.4.B.1 of the LDC, is to provide a uniform means for amending the text of the LDC whenever the public necessity, convenience, general welfare, comprehensive plan, or appropriate land use practices justify or require doing so.

The advisability of amending the text of this Code is a matter committed to the legislative discretion of the City Commission and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the City Commission shall weigh the relevance of and consider whether and the extent to which the proposed amendment:

a. Is consistent with the Comprehensive Plan;

Staff has reviewed the proposed text amendments to the LDC as has determined them to be consistent with the Comprehensive Plan.

b. Is in conflict with any provision of this Code or the Code of Ordinances;

The proposed text amendments are not in conflict with the LDC or the Code of Ordinances.

c. Is required by changed conditions;

The proposed LDC amendments are intended to remove unnecessary hardships placed on local business owners and to conform with connotationally protected freedom of speech.

d. Addresses a demonstrated community need;

The proposed LDC amendments are intended to remove unnecessary impediments for local business owners and to also continue to protect personal rights.

e. Is consistent with the purpose and intent of the zoning districts in this Code, or would improve compatibility among uses and would ensure efficient development within the city;

The proposed LDC text amendments are consistent with the purpose and intent of the zoning districts in the LDC.

f. Would result in a logical and orderly development pattern; and

The proposed amendments will continue to allow for logical and orderly development patterns.

g. Would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

Staff does not have any indication that the proposed text amendments will result in significantly adverse impacts on the natural environment.

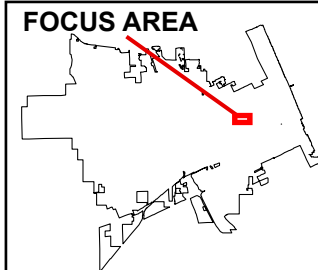
RECOMMENDATION

Staff recommends approval the request to amend Sections 5.2.B.18 & 5.2.B.24 of the Land Development Code (LDC). A majority vote of the Planning Board members present and voting is required to recommend approval to the City Commission.

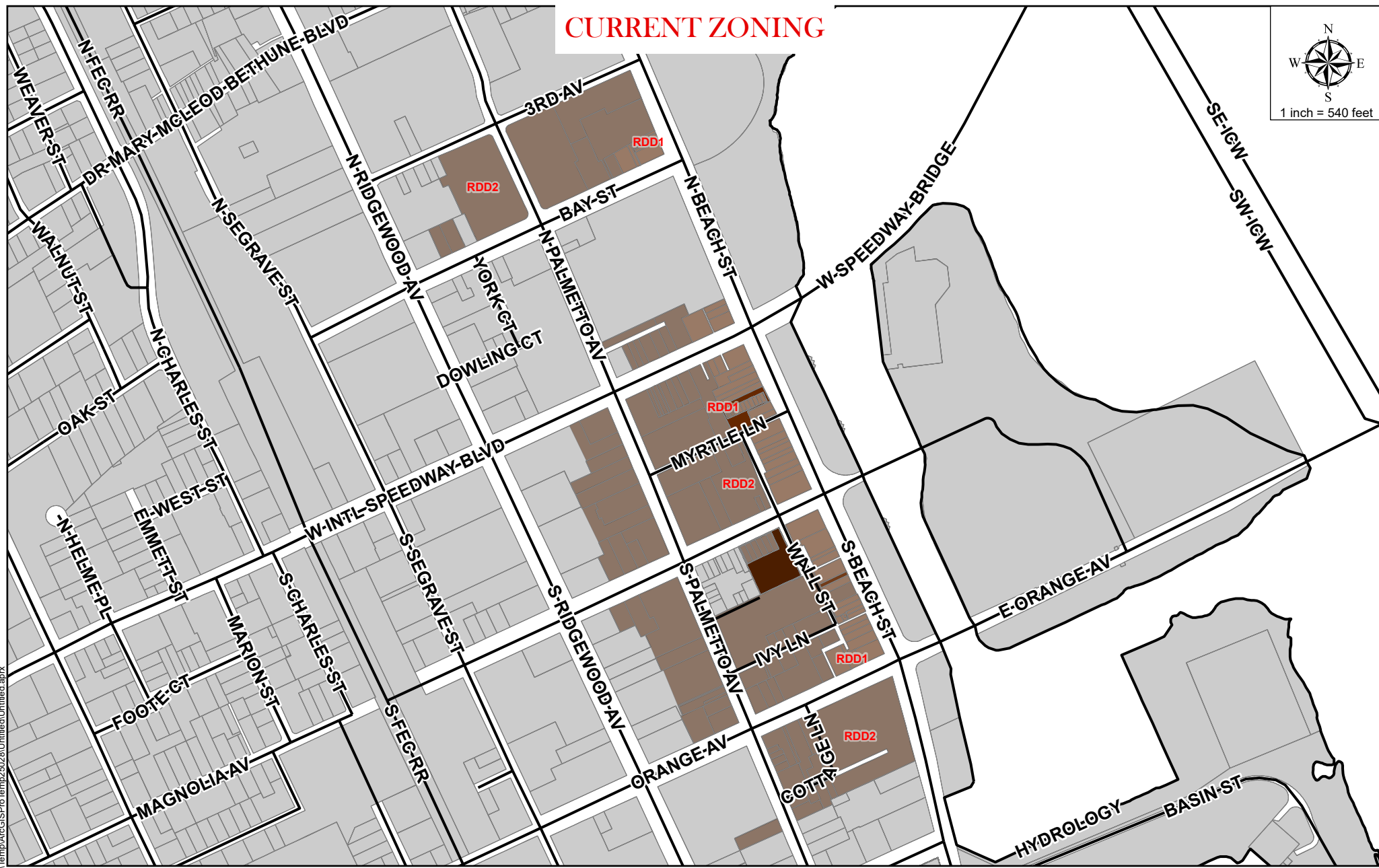
The item is tentatively scheduled to be heard by the City Commission for first reading on **July 2, 2025**, and second reading (public hearing) on **July 16, 2025**.



This map was developed and produced by the City of Daytona Beach GIS. The map is provided for reference only and are not intended to show map scale accuracy or all inclusive map features. As indicated, the accuracy of the map has not been verified and it should be used for informational purposes only. Map discrepancies should be brought to the attention of City Engineering and or Development Services.



CURRENT ZONING

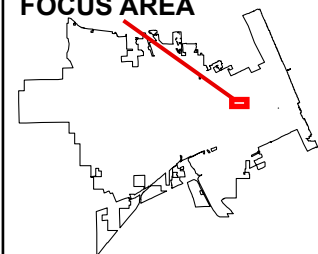


ZONING DISTRICTS RDD-1 RDD-2

City of Daytona Beach Map disclaimer:

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FOCUS AREA



Planning Board
The City of Daytona Beach
MINUTES

(Excerpts from the May 22, 2025 Planning Board Meeting)

4E. Standards for Specific Principal Uses - Land Development Code Text Amendment DEV2025-299

A request by the Growth Management and Planning Department, Planning Division, to amend Sections 5.2.B.18 & 5.2.B.24 of the Land Development Code (LDC) to clarify kitchen equipment requirements for establishments serving alcohol and to remove prohibitions for advertising and signage allowances for hotel or motel accessory uses.

Staff Presentation:

Dennis Mrozek, Planning Director, presented the staff report which was included as part of the packet. A request by the Growth Management and Planning Department, Planning Division, to amend Sections 5.2.B.18 & 5.2.B.24 of the Land Development Code (LDC) to clarify kitchen equipment requirements for establishments serving alcohol and to remove prohibitions for advertising and signage allowances for hotel or motel accessory uses

John Nicholson, 413 N. Grandview Avenue, is against this text amendment.

Board Action:

A motion was made by Mr. Barhoo, seconded by Mr. Weatherholtz to approve Standards for Specific Principal Uses - Land Development Code Text Amendment DEV2025-299. The motion carried (7-0) with the breakdown as follows:

| | |
|---------------------|-----|
| Tony Barhoo | Yes |
| Josephine Callis | Yes |
| Michael McLean | Yes |
| Milverton Robinson | Yes |
| Tony Servance | Yes |
| Cathy Washington | Yes |
| Vernon Weatherholtz | Yes |

Business Impact Estimate

Directions: Pursuant to F.S. s. 166.041(4), as most recently amended by Ch. 2023-145, Laws of Florida, the City is required to prepare a Business Impact Statement for a range of ordinances. A list of ordinance exemptions is provided below. Please check all exemption boxes that apply to the proposed ordinance, and provide the name/title date where indicated below.

- ☐ 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
- ☐ The proposed ordinance is enacted to implement the following:
 - a. Development orders and development permits, as those terms are defined in Fla. Stat. s. 163.3164;
 - b. Comprehensive plan amendments and land development regulation amendments initiated by an application submitted by a private party other than the municipality;
 - c. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - d. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - e. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

Prepared by: Vanessa Trimble / Planning Technician / Planning Dept. Date: 06-16-2025
Printed Name/Title/Department

Regardless of whether any of the boxes are checked, Include this completed page in the agenda packet.

*If none of the boxes above are checked, complete the attached Business Impact Statement and include the completed Business Impact Statement as part of the agenda package. **The completed Statement must be posted on the City of Daytona Beach web site not later than the time notice of the proposed ordinance is published.***

BUSINESS IMPACT STATEMENT

This Business Impact Estimate is provided in accordance with s. 166.041(4), Florida Statutes. This Business Impact Estimate may be revised following its initial posting.

ORDINANCE TITLE

A request by the Growth Management and Planning Department, Planning Division, to amend Sections 5.2.B.18 & 5.2.B.24 of the Land Development Code (LDC) to clarify kitchen equipment requirements for establishments serving alcohol and to remove prohibitions for advertising and signage allowances for hotel or motel accessory uses.

ORDINANCE SUMMARY *(must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):*

The first proposed change to section 5.2.B.18 would clarify the types of kitchen equipment required for restaurants and specialty eating or drinking establishments that serve alcohol. The current code requires all restaurants and specialty eating or drinking establishments to install an oven or stove with hood and a fire suppression system regardless of the types of food served in the restaurant. Not all food preparation techniques require this type of equipment. This LDC requirement to install unnecessary kitchen equipment creates a hardship on local businesses. The proposed LDC text change would not require an oven or stove unless needed by the restaurant. Hoods and fire suppression systems would be required based on Florida building code standards.

The second proposed change is to section 5.2.B.24. Of the LDC. Current LDC regulations prohibit outside advertising or signage for accessory uses to a hotel or motel, even when the accessory use is an allowable use in the zoning district. Staff is proposing to remove the prohibition of outside advertising or signage for accessory uses to a hotel or motel because the restriction may violate individual rights protected under the us constitution and are not likely enforceable under the standards set forth in the united states supreme court decision in reed v. Town of gilbert, 576 U.S. 155 (2015). This proposed LDC change would prevent challenges to the prohibition brought against the city which could potentially expose the city to the risk of an award of an attorney's fees.

ESTIMATE OF THE DIRECT ECONOMIC IMPACT OF THE PROPOSED ORDINANCE ON PRIVATE, FOR-PROFIT BUSINESSES IN THE CITY OF DAYTONA BEACH, IF ANY: **NA**

ESTIMATE OF DIRECT COMPLIANCE COSTS THAT BUSINESSES MAY REASONABLY INCUR: **NA**

DESCRIPTION OF NEW CHARGES/FEEES IMPOSED BY THE PROPOSED ORDINANCE OR FOR WHICH BUSINESSES WILL BE FINANCIALLY RESPONSIBLE: **NA**

ESTIMATE OF THE CITY'S REGULATORY COSTS, INCLUDING ESTIMATED REVENUES FROM ANY NEW CHARGES OR FEES TO COVER SUCH COSTS: **NA**

GOOD FAITH ESTIMATE OF THE NUMBER OF BUSINESSES LIKELY TO BE IMPACTED BY THE PROPOSED ORDINANCE: **One**

ADDITIONAL INFORMATION THE GOVERNING BODY DEEMS USEFUL (IF ANY): Signature

Vanessa Trimble

Date: 06-16-2025