

ORDINANCE NO. 45-25

AN ORDINANCE OF THE CITY OF NEW SMYRNA BEACH AMENDING THE LAND DEVELOPMENT REGULATIONS; AMENDING ARTICLE V, ZONING DISTRICTS, 504.00, DISTRICT REGULATIONS AND REQUIREMENTS, TO ADD SECTION 504.01(S) PROHIBITING THE ADVERTISEMENT OF ANY USE NOT PERMITTED IN THE ZONING DISTRICT; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLIC HEARINGS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of New Smyrna Beach, Florida, has the authority to regulate land use and zoning within its municipal boundaries pursuant to Chapter 166, Florida Statutes, and other applicable law; and

WHEREAS, the City's Land Development Regulations are intended to promote the public health, safety, and general welfare of the community through the orderly and consistent development of land; and

WHEREAS, the City Commission finds that the advertisement of uses not permitted within specific zoning districts undermines the integrity of the zoning code and can result in public confusion and noncompliance; and

WHEREAS, the City has observed a growing number of properties advertising short-term rentals in zoning districts where such uses are expressly prohibited; and

WHEREAS, in the recent case of Robert Canton, et. al. v. Hillsborough County, Case No. 20-CA-3272, the 13th Judicial Circuit Civil Appellate Division held that an attempt by a code enforcement officer to make an online reservation for fewer than seven consecutive days was insufficient, on its own, to establish a violation of applicable zoning regulations; and

WHEREAS, regulating the advertisement of short-term rentals in zoning districts where such uses are not permitted will enhance the City's ability to enforce its zoning regulations and provide code compliance officers with an additional tool to aid in establishing competent substantial evidence of short-term rental violations; and

WHEREAS, prohibiting these advertisements for unpermitted uses helps ensure land is used in accordance with approved zoning district regulations and supports the enforcement of the City's development standards; and

WHEREAS, the City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, has requested administrative text amendments to the Land Development Regulations, Article V, Zoning Districts, to add Section 504.01(S), prohibiting the advertisement of uses not permitted in the zoning district; and

WHEREAS, the Planning and Zoning Board, at its regular meeting on July 7, 2025, by a vote of 7-0, recommended that the City Commission approve the text amendment; and

WHEREAS, the City Commission deems it is in the best interests of the citizens of the City of New Smyrna Beach to amend the Land Development Regulations as described herein.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:

SECTION 1: Amendment. That New Smyrna Beach Land Development Regulations, Article V, Zoning Districts, Section 504.00, District regulations and requirements, Section 504.01, General Regulations, is hereby amended to read as follows: **(Note: Omissions from text are indicated by [...], deletions from text are indicated by ~~striketrough~~ and additions to text are indicated by underline.)**

ARTICLE V. ZONING DISTRICTS

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504.00. Districts regulations and requirements.

504.01. General Regulations

S. Reserved. ¹ Advertising for any use that is not permitted in a zoning district is strictly prohibited.

...

SECTION 2: Codification. Following adoption of this ordinance, the City Clerk shall transmit a copy of this ordinance to Municipal Code Corporation of Tallahassee, Florida, to be codified into the City's Code of Ordinances. Municipal Code Corporation's usual and customary fee for said codification service is hereby approved.

SECTION 3: Public Hearing. That the public hearing considering the adoption of this ordinance shall be held at 6:30 p.m. on August 12, 2025, in the City Commission Chamber, 214 Sams Avenue, New Smyrna Beach, Florida, after notice published pursuant to §166.041(3)(a), F.S.

SECTION 4: Administrative Correction of Scrivener's Errors. The administrative correction of typographical and/or scrivener's errors in this Ordinance which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

SECTION 5: Conflicting Ordinances. That all ordinances or parts thereof that are in conflict with this ordinance shall be and the same are hereby rescinded and repealed.

94 **SECTION 6: Severability.** That if any section, sentence, clause or phrase of this ordinance is
95 held invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in
96 no way affect the validity of the remaining portions of this ordinance.
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98 **SECTION 7: Effective Date.** That this ordinance shall take effect immediately upon its final
99 adoption.
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101 **APPROVED AS TO FORM AND CORRECTNESS:**
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105 **CARRIE AVALLONE**

106 **City Attorney**
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108 **DATE:** 7/10/2025