



CITY COUNCIL WORKSHOP

February 21, 2024 at 5:30 PM

City Council Chambers, 16 Colomba Rd.

DeBary, Florida 32713

AGENDA

CALL TO ORDER

ROLL CALL

PRESENTATIONS

1. Staff is presenting an overview to the City Council on Chapters 1, 2, and 3 of the proposed Land Development Code (LDC).

PUBLIC PARTICIPATION

COUNCIL DISCUSSION

ADJOURN

If any person decides to appeal any decision made by the City Council with respect to any matter considered at this meeting or hearing he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk at least three (3) working days in advance of the meeting date and time at (386) 668-2040.



City Council Meeting City of DeBary AGENDA ITEM

Subject: Land Development Code, Chapters 1, 2, and 3	Attachments: <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Supporting Documents/ Contracts <input checked="" type="checkbox"/> Other
From: Steven E. Bapp, AICP Growth Management Director	
Meeting Hearing Date February 21, 2024	

REQUEST

Staff is presenting an overview to the City Council on Chapters 1, 2, and 3 of the proposed Land Development Code (LDC).

PURPOSE

To inform the Council on the provisions of the proposed Chapters 1, 2, and 3 of the Land Development Code.

CONSIDERATIONS

The City is drafting a new LDC that is a reorganization of the existing chapters to a more modern user-friendly code, updates to each chapter to ensure consistency with current practice, incorporate recent ordinances, updates to all regulatory references.

Chapter 1 covers general provisions of the Code. For the update, staff:

- Moved several sections to other chapters to ensure better functionality.
- Clarified the nonconforming section of the Code to ensure compliance with the whole Code if the construction threshold is met.
- Ensured updated portions of this Chapter are consistent with recently adopted ordinances.
- Removed redundant or repetitive sections.

Chapter 2 covers definitions used for the Code. For the update, staff:

- Moved general definitions from other chapters to this chapter.
- Consolidated terms used in the Permitted Use table to ensure specific uses are covered.
- Updated federal regulations, Florida Statutes, and other applicable references included in the definitions.
- Updated specific definitions based on changes to statutes and federal regulations.
- Ensured updated definitions are consistent with recently adopted ordinances.

Chapter 3 covers administrative procedures used for the Code. For the update, staff:

- Consolidated all of the development procedures into this chapter.
- Adjusted procedures based on current practices.
- Change Land Development Manager to Growth Management Director.

COST/FUNDING

None.

RECOMMENDATION

It is recommended the City Council provide staff with feedback to facilitate the LDC Implementation.

IMPLEMENTATION

City staff will present other chapters of the proposed LDC at Council Workshops through June 2024.

ATTACHMENTS

1. LDC Table of Contents Old VS New
2. Chapters 1, 2 and 3 – Strike-Thru Version
3. Chapters 1, 2, and 3 – Clean Version

CURRENT TOC

CHAPTER 1 - GENERAL PROVISIONS

- Sec. 1-1. - Short title.
- Sec. 1-2. - Authority and purpose.
- Sec. 1-3. - Definitions and rules of construction.
- Sec. 1-4. - Development and use of land.
- Sec. 1-5. - Administration.
- Sec. 1-6. - Rezoning.
- Sec. 1-7. - Interpretations and appeals.
- Sec. 1-8. - Variances.
- Sec. 1-9. - Special exceptions.
- Sec. 1-10. - Notice requirements.
- Sec. 1-11. - Appeal to court.
- Sec. 1-12. - Nonconforming lots, structures, and uses.
- Sec. 1-13. - Reserved.
- Sec. 1-14. - Enforcement and penalties.
- Sec. 1-15. - Authority to enter property in performance of duties.
- Sec. 1-16. - Assessment of fees, costs and expenses for development.

CHAPTER 2 - PROCEDURES

- Sec. 2-1. - Development plan required.
- Sec. 2-2. - Criteria for review of a development plan.
- Sec. 2-3. - Previously approved planned developments.
- Sec. 2-4. - Platting.
- Sec. 2-5. - Concurrency management system.
- Sec. 2-6. - Public school capacity.
- Sec. 2-7. - Owners' association.
- Sec. 2-8. - Proportionate fair-share program.

CHAPTER 3 - ZONING REGULATIONS

ARTICLE I. - IN GENERAL

- Sec. 3-1. - Zoning map.
- Sec. 3-2. - Zoning classifications.
- Sec. 3-2a. - Zoning/future land use compatibility matrix.
- Sec. 3-3. - Rules of construction.

Secs. 3-4—3-20. - Reserved.

ARTICLE II. - OVERLAY DISTRICTS

- Sec. 3-21. - Applicability.
- Sec. 3-22. - Village Center Overlay District.
- Sec. 3-23. - South 17-92 Overlay District.
- Sec. 3-24. - Waterfront Use Overlay District.

Secs. 3-25—3-40. - Reserved.

ARTICLE III. - ZONING

DIVISION 1. - RULES OF INTERPRETATION OF CLASSIFICATION BOUNDARIES

- Sec. 3-41. - Interpretation of classification boundaries.
- Secs. 3-42—3-60. - Reserved.

DIVISION 2. - SCOPE[1]

- Sec. 3-61. - Zoning affects all premises.
- Sec. 3-62. - Interpretation of uses and structures permitted.
- Sec. 3-63. - Yard, lot coverage, floor area, and building height requirements.
- Sec. 3-64. - Multiple use of required space prohibited.
- Sec. 3-65, 3-66. - Reserved.
- Sec. 3-67. - Cardrooms prohibited.

Secs. 3-68—3-80. - Reserved.

DIVISION 3. - CLASSIFICATIONS

- Sec. 3-81. - Established.
- Sec. 3-82. - C Conservation Classification.
- Sec. 3-83. - P Public Use Classification.
- Sec. 3-84. - RC Resource Corridor Classification.
- Sec. 3-85. - Reserved.
- Sec. 3-86. - A-2 Rural Agriculture Classification.
- Sec. 3-87. - A-3 Transitional Agriculture Classification.
- Sec. 3-88. - RR Rural Residential Classification.
- Sec. 3-89. - RA Rural Estate Classification.
- Sec. 3-90. - R-1 Urban Single-Family Residential Classification.
- Sec. 3-91. - R-3 Urban Single-Family Residential Classification.
- Sec. 3-92. - R-4 Urban Single-Family Residential Classification.
- Sec. 3-93. - R-5 Urban Single-Family Residential Classification.
- Sec. 3-94. - R-6 Urban Two-Family Residential Classification.
- Sec. 3-95. - R-7 Urban Multifamily Residential Classification.
- Sec. 3-96. - R-8 Urban Multifamily Residential Classification.
- Sec. 3-97. - MH-1 Mobile Home Park Classification.
- Sec. 3-98. - Reserved.
- Sec. 3-99. - MH-5 Urban Mobile Home Classification.
- Sec. 3-100. - B-2 Neighborhood Commercial Classification.
- Sec. 3-101. - B-3 Shopping Center Classification.
- Sec. 3-102. - B-4 General Commercial Classification.
- Sec. 3-103. - B-5 Heavy Commercial Classification.
- Sec. 3-104. - B-6 Highway Interchange Commercial Classification.
- Sec. 3-105. - B-7 Commercial Marina Classification.
- Sec. 3-106. - B-9 General Office Classification.
- Sec. 3-107. - I-1 Light Industrial Classification.
- Sec. 3-108. - PUD Planned Unit Development.
- Secs. 3-109—3-120. - Reserved.

DIVISION 4. - SUPPLEMENTARY REGULATIONS

- Sec. 3-121. - Purpose; access control.
- Sec. 3-122. - Exceptions to minimum yard or lot coverage requirements.

PROPOSED REORGANIZATION

CHAPTER 1 - GENERAL PROVISIONS

- Sec. 1-1. - Short title.
- Sec. 1-2. - Authority and purpose.
- Sec. 1-14. - Enforcement and penalties.
- Sec. 1-15. - Authority to enter property in performance of duties.
- Sec. 1-12. - Nonconforming lots, structures, and uses.
- Sec. 4-208. - Violations.

CHAPTER 2 – DEFINITIONS

- Sec. 3-3. - Rules of construction.
- ~~Sec. 4-1. - Rules of construction.~~
- Sec. 1-3. - Definitions ~~and rules of construction.~~
- Sec. 4-2. - Abbreviations.

~~DIVISION 2. – DEFINITIONS~~

- ~~Sec. 4-209. – General.~~
- ~~Sec. 4-210. – Definitions.~~
- ~~Sec. 5-135. – Definitions.~~
- ~~Sec. 4-3. – List of reference publications, latest editions.~~

CHAPTER 3 – ADMINISTRATION AND PROCEDURES

- Sec. 1-4. - Development and use of land.
- Sec. 1-5. - Administration.
- Sec. 1-6. - Rezoning.
- Sec. 1-7. - Interpretations and appeals.
- Sec. 1-8. - Variances.
- Sec. 1-9. - Special exceptions.
- Sec. 1-10. - Notice requirements.
- Sec. 1-11. - Appeal to court.
- Sec. 1-16. - Assessment of fees, costs and expenses for development.

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 - Sec. 2-6. - Public school capacity.
 - Sec. 2-7. - Owners' association.
 - Sec. 2-8. - Proportionate fair-share program.
- #### DIVISION 1. - DEVELOPMENT PROCEDURES AND REQUIREMENTS
- Sec. 4-21. - General provisions.
 - Sec. 4-22. - Administration.
 - Sec. 4-23. - Development orders, development permits, approval authority, installation of improvements, public services and facilities agreements, and appeals.
 - Sec. 4-24. - Application review requirements.
 - Sec. 4-25. - Development review procedures.
 - Sec. 4-26. - Availability of pedestrian and bicycle circulation facilities.

DIVISION 3. - FINAL SITE PLAN APPROVAL PROCEDURES

- Sec. 4-61. - Final site plan review.
- Sec. 4-62. - Conceptual or final site plan review.
- Sec. 4-63. - Conformity to recorded plat and zoning regulations.

DIVISION 2. - SUBDIVISION REGULATIONS

- Sec. 4-41. - Purpose.
- Sec. 4-42. - Reserved.
- Sec. 4-43. - Sketch plan review.
- Sec. 4-44. - Overall development plan review.
- Sec. 4-45. - Preliminary plat and construction plan review.
- Sec. 4-46. - Final plat review.
- Sec. 4-47. - Plat certification and dedications.

DIVISION 5. - INSTALLATION, GUARANTEE AND INSPECTION OF REQUIRED IMPROVEMENTS

- Sec. 4-111. - Developer's guarantee.
 - Sec. 4-112. - Inspections and tests.
- #### DIVISION 6. - USE PERMIT [ROW UTILIZATION PERMIT]

- Sec. 4-131. - Regulations.
- Sec. 4-132. - Stipulations.
- Sec. 4-133. - Supporting regulations.
- Sec. 4-134. - Qualifications of permittee.
- Sec. 4-135. - Exceptions.
- Sec. 4-136. - Notification to other agencies.
- Sec. 4-137. - Responsibility for compliance.
- Sec. 4-139. - Permits and inspections.

CHAPTER 4 – ZONING

ARTICLE I. - IN GENERAL

- Sec. 3-1. - Zoning map.
- Sec. 3-2. - Zoning classifications.
- Sec. 3-2a. - Zoning/future land use compatibility matrix.

ARTICLE III. - ZONING

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 - Sec. 3-62. - Interpretation of uses and structures permitted.
 - Sec. 3-63. - Yard, lot coverage, floor area, and building height requirements.
 - Sec. 3-64. - Multiple use of required space prohibited.
- ##### DIVISION 3. - EXCEPTIONS TO MINIMUM YARD OR LOT COVERAGE REQUIREMENTS
- Sec. 3-122. - Exceptions to minimum yard or lot coverage requirements.

Sec. 3-123. - Boat docks and boathouses.
 Sec. 3-124. - Construction in platted easements.
 Sec. 3-125. - Erection of more than one principal structure on a lot.
 Sec. 3-126. - Exceptions to height regulations.
 Sec. 3-127. - Home occupations.
 Sec. 3-128. - Mobile home and mobile recreational vehicle park requirements.
 Sec. 3-129. - Off-street parking and loading.
 Sec. 3-130. - Parking and storage of vehicles, shelters or watercraft.
 Sec. 3-131. - Environmental standards.
 Sec. 3-132. - Portable shelters.
 Sec. 3-133. - Additional regulations for certain permitted principal uses.
 Sec. 3-134. - Special exceptions.
 Sec. 3-135. - Waterfront yards.
 Sec. 3-136. - Temporary uses and structures.
 Sec. 3-137. - Clustering of dwelling units and zero lot line residential subdivisions.
 Sec. 3-138. - Accessory structures.

CHAPTER 4 - LAND DEVELOPMENT STANDARDS
 ARTICLE I. - IN GENERAL
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 Sec. 4-2. - Abbreviations.
 Sec. 4-3. - List of reference publications, latest editions.
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ARTICLE II. - LAND DEVELOPMENT
 DIVISION 1. - DEVELOPMENT PROCEDURES AND REQUIREMENTS
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 Sec. 4-22. - Administration.
 Sec. 4-23. - Development orders, development permits, approval authority, installation of improvements, public services and facilities agreements, and appeals.
 Sec. 4-24. - Application review requirements.
 Sec. 4-25. - Development review procedures.
 Sec. 4-26. - Availability of pedestrian and bicycle circulation facilities.
 Secs. 4-27—4-40. - Reserved.

DIVISION 2. - SUBDIVISION REGULATIONS
 Sec. 4-41. - Purpose.
 Sec. 4-42. - Reserved.
 Sec. 4-43. - Sketch plan review.
 Sec. 4-44. - Overall development plan review.
 Sec. 4-45. - Preliminary plat and construction plan review.
 Sec. 4-46. - Final plat review.
 Sec. 4-47. - Plat certification and dedications.
 Secs. 4-48—4-60. - Reserved.

DIVISION 3. - FINAL SITE PLAN APPROVAL PROCEDURES
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 Sec. 4-62. - Conceptual or final site plan review.
 Sec. 4-63. - Conformity to recorded plat and zoning regulations.
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DIVISION 4. - DESIGN AND CONSTRUCTION STANDARDS OF IMPROVEMENTS
 Sec. 4-81. - General design criteria.
 Sec. 4-82. - Streets.
 Sec. 4-83. - Blocks.
 Sec. 4-84. - Lots.
 Sec. 4-85. - Easements.
 Sec. 4-86. - Phased development.
 Sec. 4-87. - Water and sewer.
 Sec. 4-88. - Off-street circulation, parking and loading facilities.
 Sec. 4-89. - Commercial, industrial and multifamily residential driveways.
 Sec. 4-90. - Sidewalks.
 Sec. 4-91. - Erosion control.
 Sec. 4-92. - Fire protection systems.
 Secs. 4-93—4-110. - Reserved.

DIVISION 5. - INSTALLATION, GUARANTEE AND INSPECTION OF REQUIRED IMPROVEMENTS
 Sec. 4-111. - Developer's guarantee.
 Sec. 4-112. - Inspections and tests.
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DIVISION 6. - USE PERMIT [ROW UTILIZATION PERMIT]
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 Sec. 4-133. - Supporting regulations.
 Sec. 4-134. - Qualifications of permittee.
 Sec. 4-135. - Exceptions.
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 Sec. 4-140. - Crossings.
 Sec. 4-141. - Construction standards.
 Sec. 4-142. - Density testing.
 Sec. 4-143. - Working hours.
 Sec. 4-144. - Maintenance of traffic.
 Sec. 4-145. - Restoration and cleanup.
 Sec. 4-146. - Safety.
 Sec. 4-147. - Warranty.

Sec. 3-125. - Erection of more than one principal structure on a lot.
 Sec. 3-126. - Exceptions to height regulations.
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 Sec. 3-67. - Cardrooms prohibited.
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 Sec. 3-85. - Reserved.
 Sec. 3-86. - A-2 Rural Agriculture Classification.
 Sec. 3-87. - A-3 Transitional Agriculture Classification.
 Sec. 3-88. - RR Rural Residential Classification.
 Sec. 3-89. - RA Rural Estate Classification.
 Sec. 3-90. - R-1 Urban Single-Family Residential Classification.
 Sec. 3-91. - R-3 Urban Single-Family Residential Classification.
 Sec. 3-92. - R-4 Urban Single-Family Residential Classification.
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 Sec. 3-95. - R-7 Urban Multifamily Residential Classification.
 Sec. 3-96. - R-8 Urban Multifamily Residential Classification.
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 Sec. 3-99. - MH-5 Urban Mobile Home Classification.
 Sec. 3-100. - B-2 Neighborhood Commercial Classification.
 Sec. 3-101. - B-3 Shopping Center Classification.
 Sec. 3-102. - B-4 General Commercial Classification.
 Sec. 3-103. - B-5 Heavy Commercial Classification.
 Sec. 3-104. - B-6 Highway Interchange Commercial Classification.
 Sec. 3-105. - B-7 Commercial Marina Classification.
 Sec. 3-106. - B-9 General Office Classification.
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ARTICLE VI. - SOUTHEAST MIXED-USE AREA/TRANSIT ORIENTED DEVELOPMENT (SEMUA/TOD) OVERLAY DISTRICT STANDARDS
 Sec. 5-130. - Regulating plan.
 Sec. 5-131. - Land use and building density.
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 Sec. 5-133. - Site development standards.
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 Sec. 3-134. - Special exceptions.
 Sec. 3-133. - Additional regulations for certain permitted principal uses.
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CHAPTER 7 – CIRCULATION AND PARKING
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 Sec. 4-88. - Off-street circulation, parking and loading facilities.
 Sec. 4-89. - Commercial, industrial and multifamily residential driveways.
 Sec. 4-90. - Sidewalks.

CHAPTER 8 – LANDSCAPING AND BUFFERING
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 Sec. 5-82. - Penalty.

Secs. 4-148—4-180. - Reserved.

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Sec. 4-181. - Purpose and objectives.

Sec. 4-182. - Prohibitions and exemptions.

Sec. 4-183. - Stormwater management permit review.

Sec. 4-184. - Performance, review and design standards.

Sec. 4-185. - Issuance of development permit.

Sec. 4-186. - Plan adherence.

Sec. 4-187. - Maintenance.

Sec. 4-188. - Emergency exemption.

Secs. 4-189—4-200. - Reserved.

ARTICLE III. - FLOODING[1]

DIVISION 1. - FLOOD HAZARD MANAGEMENT

Sec. 4-201. - General.

Sec. 4-202. - Applicability.

Sec. 4-203. - Duties and powers of the floodplain administrator.

Sec. 4-204. - Permits.

Sec. 4-205. - Site plans and construction documents.

Sec. 4-206. - Inspections.

Sec. 4-207. - Variances and appeals.

Sec. 4-208. - Violations.

DIVISION 2. - DEFINITIONS

Sec. 4-209. - General.

Sec. 4-210. - Definitions.

DIVISION 3 - FLOOD RESISTANT DEVELOPMENT

Sec. 4-211. - Buildings and structures.

Sec. 4-212. - Subdivisions.

Sec. 4-213. - Site improvements, utilities and limitations.

Sec. 4-214. - Manufactured homes.

Sec. 4-215. - Recreational vehicles and park trailers.

Sec. 4-216. - Tanks.

Sec. 4-217. - Other development.

Sec. 4-218. - Compensatory storage for encroachments.

Sec. 4-219. - The Florida building code.

DIVISION 4. - RESERVED.

Secs. 4-220—4-230. - Reserved.

DIVISION 5. - WETLAND ALTERATION PERMITS[2]

Sec. 4-231. - Purpose and intent.

Sec. 4-232. - Wetland identification.

Sec. 4-233. - Exemptions.

Sec. 4-234. - Permit requirements.

Sec. 4-235. - Standards for review.

Sec. 4-236. - Buffer requirements.

Sec. 4-237. - Mitigation.

Sec. 4-238. - Silviculture.

Secs. 4-239—4-250. - Reserved.

DIVISION 6. - POTABLE WATER WELL FIELD PROTECTION[3]

Sec. 4-251. - Purpose and intent.

Sec. 4-252. - Establishment of well field protection zones.

Sec. 4-253. - Restrictions within the zones.

Sec. 4-254. - Hazardous substances regulated.

Sec. 4-255. - Containment standards.

Sec. 4-256. - Exemptions.

Sec. 4-257. - Modification of requirements.

Sec. 4-258. - Well field protection zone permits.

Sec. 4-259. - Application procedures and requirements.

Sec. 4-260. - Standards for review.

Sec. 4-261. - Issuance of permits; conditions.

Sec. 4-262. - Closure of facilities.

Sec. 4-263. - Fee resolution.

Sec. 4-264. - Hazardous substance inspection program to comply with federal law.

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Sec. 5-3. - Applicability.

Sec. 5-4. - Provision of bufferyards and screening.

Sec. 5-5. - Site fixtures.

Sec. 5-6. - Landscaping—Property perimeters.

Sec. 5-7. - Same—Building perimeters.

Sec. 5-8. - Same—Vehicular use areas.

Sec. 5-9. - Plant selection.

Sec. 5-10. - Planting design and distribution.

Sec. 5-11. - Encroachments and conflicts prohibited.

Sec. 5-12. - Irrigation.

Sec. 5-13. - Materials specifications.

Sec. 5-14. - Installation specifications and requirements.

Sec. 5-15. - Maintenance requirements.

Sec. 5-16. - Modifications.

Sec. 5-17. - Use of drought resistant plants.

Sec. 5-18. - Solid waste containers.

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Sec. 5-84. - Reserved.

Sec. 5-85. - General prohibitions.

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Sec. 5-87. - Tree permit application requirements.

Sec. 5-88. - Area tree protection requirements.

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Sec. 5-90. - Natural vegetation retention (areas).

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Sec. 5-92. - Tree relocation option.

Sec. 5-93. - Tree replacement requirements.

Sec. 5-94. - Historic and specimen trees.

Sec. 5-95. - Standards for tree protection during development activities.

Sec. 5-96. - Tree relocation by City.

Sec. 5-97. - Tree replacement trust account.

Sec. 5-98. - Issuance of certificates of occupancy.

Sec. 5-99. - Tree permit requirements for residential construction.

Sec. 5-100. - Appeals.

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Sec. 5-2. - Reserved.

Sec. 5-3. - Applicability.

Sec. 5-4. - Provision of bufferyards and screening.

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Sec. 5-14. - Installation specifications and requirements.

Sec. 5-15. - Maintenance requirements.

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Sec. 4-232. - Wetland identification.

Sec. 4-233. - Exemptions.

Sec. 4-234. - Permit requirements.

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Sec. 4-236. - Buffer requirements.

Sec. 4-237. - Mitigation.

Sec. 4-238. - Silviculture.

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Sec. 4-206. - Inspections.

Sec. 4-207. - Variances and appeals.

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Sec. 4-213. - Site improvements, utilities and limitations.

Sec. 4-214. - Manufactured homes.

Sec. 4-215. - Recreational vehicles and park trailers.

Sec. 4-216. - Tanks.

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Sec. 4-219. - The Florida building code.

DIVISION 6. - POTABLE WATER WELL FIELD PROTECTION[3]

Sec. 4-251. - Purpose and intent.

Sec. 4-252. - Establishment of well field protection zones.

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CHAPTER 1 - GENERAL PROVISIONS

Sec. 1.1. - Short title.

This Code shall be known as the "Land Development Code for the City of DeBary, Florida" and may be referred to as the "Land Development Code," "this Code," or the "LDC."

(Ord. No. 01-99, § 1(101), 11-3-1999)

~~Sec. 1-2.~~

Sec. 1.2. - Authority and purpose.

~~(a) (a)~~—*Authority.* This Code is enacted pursuant to F.S. § 163.3202, and F.S. ~~ch.~~§ 166, and the Charter and ordinances of the City.

~~(b) (b)~~—*Purpose.*

~~(1) (1)~~—In accordance with F.S. § 163.3202, this Code is adopted to implement the Comprehensive Plan of the City by ~~insuring~~~~insuring~~ that all development orders issued by the City are consistent with the City's adopted Comprehensive Plan.

~~(2) (2)~~—This Code establishes regulations for the use of land and water, redevelopment, subdivision of land, site design, stormwater management, floodplain management, protection of environmentally sensitive lands, protection of potable water well fields, prevention of blight and deterioration of property, preservation of historic resources, prevention of the overcrowding of land and undue concentration of population; and provides for transportation, public utilities, schools, parks, and other public infrastructure, the maintenance of levels of service for infrastructure, and other regulations necessary to prevent urban sprawl and promote the general health, safety, and welfare of the people.

~~(3) (3)~~—Land owned by the City of DeBary and developed or used for public parks or any City governmental function that promotes or benefits the comfort, convenience, safety, general welfare and happiness of citizens may not be regulated by this Code as such use of lands is considered to be for the best interest of the citizens of DeBary.

~~(c) (c)~~—*Conflict.* In the event of a conflict between any regulations of this Code, or between these regulations and any other regulations governing the same activity, the most restrictive regulation shall apply, except when this language is in conflict with State Statutes and is preempted to the State. Where there is a conflict between this Code and the adopted Comprehensive Plan of the City, the provision of the Comprehensive Plan shall prevail ~~as determined by the City Council.~~

(Ord. No. 01-99, § 1(102), 11-3-1999; Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

Sec. 1.3. - Enforcement and penalties.

The provisions of this Code may be enforced and violations punished by any of the following methods:

~~(a) (a)~~ The Code Enforcement Special Magistrate shall have jurisdiction to enforce these regulations by a fine not exceeding \$250.00 per day or as established by State Statutes. Each day any violation shall continue shall constitute a separate offense.

~~(b) (b)~~ The Code Enforcement Officer or their designee shall have jurisdiction to enforce these provisions, and any person, firm, corporation, or agent determined to be in violation shall be subject to all penalties and remedies available to the Special Magistrate as provided by law.

~~(c) (c)~~ The City may institute any appropriate action or procedure to bring about compliance or remedy. The City may order discontinuance of the use of any land, water, or building, the removal of any building,

addition, or other structure, the discontinuance of any work being done, or any other act when such use or act is in violation of this Code.

(d) The City may institute a citation process pursuant to state law and may enforce this Code under applicable procedures.

(e) Specific provisions of this Code may provide for additional remedies.

Sec. 1.4. - Authority to enter property in performance of duties.

Any person acting under the direction of the City Manager in the performance of functions and duties pursuant to this Code shall be authorized to enter upon any land and make inspections, examinations, and surveys as necessary in its administration and enforcement, subject to the limitations set forth in state statutes.

~~Sec. 1-12.~~

Sec. 1.5. References to Other Laws.

References to applicable laws such as Florida Statutes, the Florida Administrative Code, the Florida Building Code, the United States Code, and to provisions of this Code or the City Code of Ordinances shall include all amendments and successor provisions thereto, unless specifically stated otherwise.

Sec. 1.6. - Nonconforming lots, structures, and uses.

(a) (a)—Purpose and Intent. The purpose of this Section is to limit the continued existence and expansion of lots, structures, and uses established prior to the effective date of this Land Development Code which do not conform to the requirements of this Code. It is the general intent of this Section to reduce nonconformities and eventually bring lots, buildings and uses into conformance.

(b) Nonconforming lots.

(1) (1)—A lot or parcel of land is nonconforming if it does not meet the minimum area and dimensional requirements of the zoning district in which it is located.

(2) (2)—Any lot or parcel made nonconforming solely as a result of eminent domain proceedings instituted by any governmental agency, or through a voluntary conveyance in lieu thereof, shall be deemed to be a conforming lot or parcel for all purposes. However, all development activity on such a lot or parcel shall be in accordance with district yard requirements at the time of development.

(3) (3)—Where two or more existing nonconforming lots with continuous frontage are under the same ownership, or where a nonconforming lot has continuous frontage with a large tract under the same ownership, nonconforming lots shall be combined to form one or more building sites meeting the lot requirements of the district.

(4) (4)—Except as provided herein, development of a single-family dwelling shall be permitted on a nonconforming lot of at least 5,000 square feet and 50 feet or more in width at the front building line in any zoning district in which the use is permitted, if remedy of the nonconformity by combination with other lots under the same owner is not available. This subsection does not apply to or authorize single-family dwelling development upon nonconforming lots in the Resource Corridor (RC) zoning district.

(5) (5)—The City Council shall have jurisdiction to authorize variances from the requirements of this subsection as provided for in Sec. 3.10.

~~(c) (b)~~—Nonconforming buildings and structures.

~~(1) (1)~~—A building or structure is nonconforming if it does not meet the building setback, height, or bulk limitations of this Code.

~~(2) (2)~~—An existing nonconforming building or structure may be maintained and repaired, but shall not be structurally added onto or altered to further the nonconformance ~~unless the additions or alterations are for the purpose of a conforming use of the building or structure.~~

~~(3)~~—~~Existing nonconforming buildings and structures shall be made to comply with these regulations if the value of the buildings and structures on a lot after the damage is less than 50 percent of the value immediately preceding the damage as determined by the county property appraiser. This provision shall not apply to the reconstruction of a legal nonconforming single-family dwelling.~~

~~(3) (e)~~—Full compliance with the Land Development Code shall be required if a nonconforming building or structure has suffered Substantial Damage, Substantial Structural Damage, proposes Substantial Improvement, or Substantial Structural Alteration, all as defined by the Florida Building Code, latest edition, or the structure is destroyed.

~~(d)~~ Nonconforming uses.

~~(1) (1)~~—A use of land or of any building or structure is nonconforming if any of the following conditions apply:

~~a. a.~~—The use is not currently permitted in the district in accordance with this Code.

~~b. b.~~—The density or intensity of the use exceeds the density or intensity currently permitted in the district in accordance with this Code.

~~c. c.~~—The site does not meet the applicable ~~off-street parking~~ site development requirements of this Code or the Comprehensive Plan.

~~(2) (2)~~—An existing nonconforming use of any building or structure shall not be extended, enlarged, or expanded, or changed to another non-conforming use.

~~(3)~~—~~An existing nonconforming use of any building or structure shall not be rebuilt or repaired if the value of the buildings and structures on a lot after the damage is less than 50 percent of the value immediately preceding the damage as determined by the county property appraiser. This provision shall not apply to the reconstruction of a legal nonconforming single-family dwelling.~~

~~(3) (4)~~—~~Modifications shall not be granted from any of these restrictions.~~ Full compliance with the Land Development Code shall be required if a building or structure housing a nonconforming use has suffered Substantial Damage, Substantial Structural Damage, proposes Substantial Improvement, Substantial Structural Alteration, all as defined by the Florida Building Code, latest edition, or the structure is destroyed.

~~(4)~~ No modification or waiver shall be permitted from the provisions of this section or dimensional and density restrictions in order to reestablish a nonconforming use.

~~(5) (5)~~—~~Discontinuance.~~ If the operation or use of a lawful nonconforming use on any property (or portion thereof) has been discontinued for a continuous period of six ~~(6)~~ months, such nonconforming use will be deemed abandoned, regardless of whether ownership of the property has changed or not, and may not be reestablished on such property (or portion thereof) without further action by the city. Upon abandonment of a nonconforming use, the use of the land, buildings and accessory structures (or portions thereof) shall be subject to all regulations specified by this ~~Code~~ code for the zoning district in which such property is located. The vacating of premises or a building or non-operative status of the use shall be evidence of a discontinued use. The ~~City Manager~~ city manager shall have the authority to render a decision as to whether

there is a discontinuance of a lawful nonconforming use upon a property for the proscribed period. The ~~City Manager's~~city manager's written decision pursuant to this subsection may be appealed to the ~~City Council~~city council pursuant to ~~section 1-7.~~ Sec. 3.12.

~~(e)~~ ~~(d)~~—*Vested development.* There are within the ~~city~~City, various properties, the development of which was previously declared to be "vested" under the regulations of the county. It is the intent of this Code that such "vested" status shall not be changed solely by virtue of the adoption of this Code.

~~(d)~~—*Vested development.* ~~There are within the city, various properties, the development of which was previously declared to be "vested" under the regulations of the county. It is the intent of this Code that such "vested" status shall not be changed solely by virtue of the adoption of this Code.~~

~~(1)~~ ~~(e)~~—For vested developments that are legal non-conforming uses, the City Manager may permit the addition of accessory structures including fences as well as aesthetic site improvements such as landscaping, if such improvements meet the following conditions and are not for the purpose of expanding or enlarging the nonconforming use.

~~a.~~ ~~(1)~~—The non-conforming use shall not be enlarged or increased nor extended to occupy a greater area of land than was originally occupied.

~~b.~~ ~~(2)~~—The improvement must comply with all other applicable laws and regulations including overlay district requirements and required setbacks.

~~c.~~ ~~(3)~~—No new non-conformities shall be created.

~~d.~~ ~~(4)~~—The maximum lot coverage must not exceed that required by the site's zoning classification.

~~(f)~~ ~~(f)~~—*Nonconforming site improvements (not including structure).* Where an existing site improvement (landscaping, parking lot layout, etc.) is ~~nonconforming~~non-conforming with the current regulations related to such, nothing in this section shall prohibit minor site improvements that result in the reduction of this non-conformity.

~~(g)~~ ~~(g)~~—*Illegal uses.* This section does not authorize the continuance of any use or nonconformity which was not ~~validly~~lawfully in existence at the time of the adoption of this Code.

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012; ~~Ord. No. 05-2021~~, Ord. No. 05-2021, § 2, 4-21-2021; ~~Ord. No. 02-2022~~, Ord. No. 02-2022 § 3, 2-16-2022)

~~Sec. 1.1.~~ ~~Sec. 1-14.~~ ~~Enforcement and penalties.~~

~~The provisions of this Code may be enforced and violations punished by any of the following methods:~~

~~(a)~~ ~~(1)~~—~~The county court shall have jurisdiction to enforce these regulations by a fine not exceeding \$500.00 or imprisonment not exceeding 60 days or by both. Each day any violation shall continue shall constitute a separate offense.~~

~~(2)~~—~~The Code enforcement board or its designee shall have jurisdiction to enforce these provisions, and any person, firm, corporation, or agent determined to be in violation shall be subject to all penalties and remedies available to the board as provided by law.~~

~~(a)~~ ~~(3)~~—~~The City may institute any appropriate action or procedure to bring about compliance or remedy. The City may order discontinuance of the use of any land, water, or building, the removal of any building, addition, or other structure, the discontinuance of any work being done, or any other act when such use or act is in violation of this Code.~~

~~(a)~~ ~~(4)~~—~~The City may institute a citation process pursuant to state law and may enforce this Code under applicable procedures.~~

~~(5)~~—~~Specific provisions of this Code may provide for additional remedies.~~

Sec. 1.1 ~~Sec. 1-15.~~ – Authority to enter property in performance of duties.

~~Any person acting under the direction of the City Manager in the performance of functions and duties pursuant to this Code shall be authorized to enter upon any land and make inspections, examinations, and surveys as necessary in its administration and enforcement, subject to the limitations set forth in state statutes.~~

~~Sec. 4-208.~~

Sec. 1.7. - Violations.

- (a) ~~4-208.1~~ *Violations.* Any development that is not within the scope of the Florida Building Code but ~~that~~ is regulated by this ~~articleCode~~ that is performed without an issued permit, ~~that~~ is in conflict with an issued permit, or ~~that~~ does not fully comply with this ~~articleCode~~, shall be deemed a violation of this ~~articleCode~~. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this ~~articleCode~~ or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.
- (b) ~~4-208.2~~ *Authority.* For development that is not within the scope of the Florida Building Code but ~~that~~ is regulated by this ~~articleCode~~ and ~~that~~ is determined to be a violation, the ~~Floodplain Administrator~~ City Manager or their designee is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.
- (c) ~~4-208.3~~ *Unlawful continuance.* Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by ~~law (Chapter 166.22, Section 115 of the Florida Statutes)~~ Building Code.

(Ord. No. 01-14, § 2, 2-5-2014)

~~Sec. 1-3. – Definitions and rules of construction.~~

(a)
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CHAPTER 2 - DEFINITIONS

Sec. 2.1. Rules of construction.

(a) Generally. The words used in this Code shall be construed to effect the intended purposes. Definitions of various words and phrases used throughout the Code are provided in this article. ~~Other definitions may be found in specific sections of the Code and apply only to that section or portion of the Code.~~ All words or phrases not specifically defined shall be given their common and usual meanings as determined by general usage and standard dictionary references.

(b) ~~(b)~~ Usage; general~~General~~ rules of construction. The following general rules of interpretation shall apply:

(1) ~~(1)~~—The present tense includes the future, and, where appropriate, the past.

(2) ~~(2)~~—The singular number includes the plural, and vice versa. The male gender includes the female, and vice versa.

(3) ~~(3)~~—The word "shall" ~~is~~and "must" ~~are~~ mandatory; the word "may" is permissive.

(4) ~~(4)~~—Reference in one section of this Code to another section of this Code by section number shall include all subsections within that section.

(5) ~~(5)~~—Where appropriate to the context, words and terms defined in ~~F.S. chs. 163 and 380~~the Florida Statutes shall apply here. Some sections of this Code contain separate definitions sections intended primarily for use in connection with the relevant section or portion of the Code.

~~(6) Webster's Merriam Collegiate Dictionary (G. & C. Merriam Co., 11th edition, 2003) shall be used for the definitions of any words not defined in this Code or as provided in the preceding subsections.~~

(6) ~~(7)~~—All land development related terms not defined in this section shall be defined by the State Statutes (F.S.) or the Code of Federal Regulations (C.F.R.), or if not addressed by either, the latest edition of A Planners Dictionary. All other common words shall be defined by the latest edition of the Webster's Merriam Collegiate Dictionary.

(7) Determinations as to the meaning of a word or term shall be the responsibility of the City Manager, whose decision may be appealed as provided ~~herein~~ in Sec. 3.13.

(8) Where the sections of this chapter identify actions or responsibilities of other officials or boards, the action or responsibility is assigned by this Code to the City Manager, and the provision in question shall be so interpreted. Where there is a question as to whether the provision involves a procedure, or how the standard shall be administered, the City Manager will make the determination, which may be appealed pursuant to Sec. 3.13.

Sec. 2.2. – Definitions

(a) Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this article, have the meanings shown in this section.

(b) Terms defined in the Florida Building Code. Where terms are not defined in this article and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.

(c) Terms not defined. Where terms are not defined in this article or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

(d) (Words and terms defined. The following words and phrases, as used in this Code, shall have the following meanings:

100-year flood elevation means the flood elevation that has a one percent chance of being equaled or exceeded each year or as defined by the Federal Emergency Management Agency (FEMA).

Abandon shall mean any cessation of an existing use of land or of any structure thereon for a period greater than that specified by this Code, other than a cessation necessarily incident to probate, bankruptcy or mortgage foreclosure proceedings, or to the temporary absences of part-time residents.

~~(a) (c) Words and terms defined. The following words and phrases, as used in this Code, shall have the following meanings:~~

~~Abandon shall mean any cessation of an existing use of land or of any structure thereon for a period greater than that specified by this Code, other than a cessation necessarily incident to probate, bankruptcy or mortgage foreclosure proceedings, or to the temporary absences of part-time residents.~~

~~Abandoned sign shall mean any sign face~~ Access easement. That portion of a lot or sign structure which advertises a business no longer conducted on the premises parcel used for over 90 days. In making vehicular ingress or egress as allowed pursuant to the rights granted by a recorded instrument in the determination that a sign advertises Volusia County public records. In no case shall a business no longer being conducted, the City Manager street or right-of-way be construed to mean an access easement.

~~Accessory dwelling unit (ADU) shall consider any or all of the following: the existence or absence of mean a current occupational license, utility service deposit habitable unit ancillary or account, secondary to an existing single-family dwelling use that has a separate kitchen, bathroom, and sleeping area. The term ADU includes a separate detached dwelling unit on the same lot as the principal single-family dwelling; or a separate dwelling unit within, or attached to, the principal single-family dwelling, provided that the unit has a distinctly separate entrance from the main entrance of the premises, and relocation principal single-family dwelling.~~

(1) Interior refers to an accessory dwelling that is using an interior part of the business primary dwelling

(2) Detached refers to a structure on a residential lot that is separate from the primary dwelling yet subordinate to the primary unit.

Accessory structure (appurtenant structure) shall mean a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

Accessory structures should constitute a minimal investment, may not be used for human habitation with the exception of ~~garage apartments~~accessory dwelling units as defined herein, and be designed to have minimal flood damage potential. Examples of accessory structures are swimming pools, detached garages, carports, storage sheds, pole barns, and ~~hay sheds~~perimeter fences and walls.

Accessory use shall mean a use customarily incidental and subordinate to the principal use or building, and located on the same lot with the principal use or building.

Addition (to an existing building) ~~shall mean any walled and roofed expansion to the perimeter an extension or increase in floor area, number of stories, or height of a building in which the addition or structure, as this term is connected~~defined in the Florida Building Code.

Administrative approval, as used in F.S. 166.04151, shall mean approved by a common loadbearing wall other than a firewall. ~~Any walled and roofed addition which is connected by a firewall or is separated by independent perimeter loadbearing walls is new construction.~~administrative official after input from the Development Review Committee in accordance with this Code and Comprehensive Plan.

~~Add-on sign~~*Administrative rezoning* shall mean ~~any additional sign added to a previously and refer to a rezoning initiated by the City as permitted by this Code and/or conforming sign.~~ State Statutes.

Adult bookstore shall mean any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock, books, magazines, other periodicals, videos, discs, or other graphic media, and which offers, sells, provides, or rents for a fee, any sexually oriented material, ~~as defined by F.S. 847.001.~~

Adult theater shall mean an enclosed building or an enclosed space within a building used for presenting either films, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults, or any business that features a person who engages in specific sexual activities for observation by a patron, and which restricts or purports to restrict admission to only adults, as defined by F.S. 847.001.

Affordable housing shall mean housing that meets the criteria for being affordable as prescribed in F.S. 420.0004.

Agricultural use shall mean the use of land in horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, beekeeping, pisciculture and all forms of farm products and farm production.

~~Adult theatre~~ shall mean ~~a premises which exhibits any motion picture, exhibition, show, live show, representation, or other presentation which, in whole or in part, depicts nudity, sexual conduct, sexual excitement, or sadomasochistic abuse and is harmful to minors, as defined in F.S. § 847.013, as may be amended, and admission of minors to which is unlawful in accordance with F.S. § 847.013, as may be amended. This includes any exhibition to one or more persons, including facilities commonly known as peep booths or peep shows.~~

~~Advertising structure~~ shall mean ~~any structure installed for advertising purposes, with or without any advertisement display thereon, situated upon or attached to real property upon which any poster, bill, printing, painting, device or other advertisement of any kind whatsoever may be placed, posted, painted, tacked, nailed or otherwise fastened, affixed or displayed; provided, however, that said term shall not include buildings.~~

~~A-frame sign~~ shall mean ~~a movable sign not secure or attached to the ground as required by this Code.~~

~~Agricultural use~~ shall mean ~~the use of land in horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, beekeeping, pisciculture and all forms of farm products and farm production.~~

~~Air curtain incinerator~~ shall mean ~~a portable or stationary combustion device that directs a plane of high-velocity forced draft air through a manifold head into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain.~~

Alteration of a watercourse shall mean alterations made to the channels of rivers, stream, or drainage ways, usually to improve drainage, relocate the channel, or to increase its flood carrying capacity.

~~*Alteration* shall mean any changes in structural parts; type of construction; kind or class of occupancy. The term "alteration" shall include the term "alter" or "reconstruct." construction or renovation to an existing structure other than repair or addition, as defined by the Florida Building Code.~~

~~*Altered wetlands* shall mean wetlands which have been substantially affected by man, but which continue to be dominated by wetland or transitional vegetation.~~

~~*Alternative support structure* shall mean structures other than communication towers, which may include, but are not limited to, buildings, water towers, light poles, power poles, telephone poles, and other essential public utility structures.~~

~~*Animals* shall mean and include, but is not limited to, both household pets and farm animals.~~

~~*Antenna* shall mean any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves.~~

~~*Alternative support structure* shall mean structures other than communication towers, which may include, but are not limited to, buildings, water towers, light poles, power poles, telephone poles, and other essential public utility structures.~~

~~*Animals* shall mean and include, but is not limited to, both household pets and farm animals.~~

~~*Animated sign* shall mean a sign with physical or light action or motion or the appearance thereof, including lenticulation, wind actuated elements, rotating, oscillating, fluttering, flashing, or swinging signs, or banners, but excluding permitted flags.~~

~~*Antenna* shall mean any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves.~~

~~*Apartment, garage*, shall mean an accessory building containing a storage area for one or more motor vehicles and one single-family dwelling occupying not more than 800 square feet of living area for residential use by family members of the occupants of the primary residential structure and shall not be rented to unrelated persons or used as a rental apartment.~~

~~*Appeal* shall mean a request for a review of the City ~~Manager's~~ Manager or their designated agent's interpretation of any provision of this Code. ~~It shall also mean a~~ or decision made pursuant to Sec. 3.13 of this Code.~~

~~*Appeal (Floodplain)*. A request for a review of the ~~floodplain administrator's~~ Floodplain Administrator's interpretation of any provision of this Code.~~

~~*Applicant* shall mean any person applying for or who has been granted a development order and/or permit to proceed with a project, or an owner or owner's authorized agent who submits an application or project to the City.~~

~~*Application* shall mean and refer to an application or petition or proposal submitted to the City for review or approval of:~~

- ~~(1) A preliminary subdivision plan;~~
- ~~(2) A subdivision plan or plat, including any revisions to a previously approved or existing subdivision or plat;~~
- ~~(3) A rezoning (with or without a Comprehensive Plan amendment);~~
- ~~(4) A Comprehensive Plan amendment;~~
- ~~(5) A article or a request for a variance.~~

~~*Applicant* shall mean any person applying for or who has been granted a development order and/or permit to proceed with a project, or an owner or owner's authorized agent who submits an application or project to the City.~~

~~*Application* shall mean and refer to an application or petition or proposal submitted to the City for review or approval of:~~

- (6) ~~— A special exception;~~
- (7) ~~— A Planned Unit Development;~~
- (8) ~~— A subdivision review exemption;~~
- (9) ~~— A site plan;~~
- (10) ~~— A development any permit for construction, inspection and testing of subdivision improvements;~~
- (11) ~~— A conceptual site plan review;~~
- (12) ~~— A stormwater management permit;~~
- (13) ~~— A tree removal permit;~~
- (14) ~~— A wetland alteration permit;~~
- (15) ~~— A development agreement;~~
- (16) ~~— Other development related matters for which City approval or review is required.~~ by this Code, the Code of Ordinances, State Statutes, or Federal regulations

Aquaculture shall mean cultivation of animal and plant life in a water environment.

Arcade shall mean a row of arches supported by columns or piers which is covered.

Area of special flood hazard shall mean the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This term is synonymous with the phrase "special flood hazard area." ~~Aquaculture shall mean cultivation of animal and plant life in a water environment.~~

~~Area of shallow flooding shall mean a designated AO, AH or VO zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.~~

~~Area of special flood hazard shall mean the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This term is synonymous with the phrase "special flood hazard area."~~

~~Arterial shall mean a public road, the primary, though not sole, purpose or use of which is to facilitate through movement of vehicles in moderate to substantial volume, rather than the providing of direct access to abutting properties.~~

~~Arterial corridor shall mean the land area comprised of an arterial and its intersections, and that part of any intersecting nonarterial street and its intersections which is within 660 feet of the arterial as measured along the centerline of the nonarterial street from the centerline of the arterial.~~

~~Arterial road shall mean a route providing service which is or has the potential of relatively continuous and/or relatively high traffic volume, long average trip length, high operative speed, and high mobility importance. In addition, all United States or state numbered highways shall be considered arterial roads. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 1612.2.]~~

Architectural embellishments. Ornamentation, adornment with decorative elements, i.e., towers, turrets and rosettes.

Artificial drainage system shall mean any canal, ditch, culvert, dike, storm sewer or other manmade facility which tends to control the surface flow of water.

Artificial lighting shall mean any source of temporary, fixed or movable light emanating from a manmade device, including, but not limited to, incandescent mercury vapor, metal halide, or sodium lamps, spotlights, streetlights, construction security lights or lights which illuminate signs. This definition shall not include handheld or vehicular lighting.

As-built plans shall mean the amended final site plans specifying the locations, dimensions, elevations, capacities and capabilities of structures or facilities as they have been constructed.

ASCE 24. A standard titled Flood Resistant Design and Construction that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

~~*Assisted living facility* shall mean any building or buildings, section or distinct part of a licensed group building, private home, boarding home, home for the aged, or other residential facility that, regardless of whether operated for profit, which through its ownership or management provides assistance with activities of daily living for senior citizens. Assisted living facilities can also include those facilities which provide housing, meals, and one or more personal services for a continuum of care from independent living period exceeding 24 hours to nursing assistance. one or more adults who are not relatives of the owner or administrator, as defined by F.S. 429.02.~~

Automobile service station.

~~(1) (1) —~~ *Type A* shall mean any premises used for the servicing of motor vehicles, including engine tuneups and repair; wheel balancing, alignment, brake service; the retail sale of fuel, lubricants and other products necessary to the operation and maintenance of motor vehicles, and the installation of such products, plus the sale of refreshments, but excluding the rebuilding or reconditioning of engines, and body repair. Automobile, boat, motorcycle, mobile home and recreational vehicles sales not included.

~~(2) (2) —~~ *Type B* shall mean in addition to Type A uses, any repair, rebuilding or reconditioning of any motor vehicle. Automobile, boat, motorcycle, mobile home and recreational vehicle sales not included.

~~*Background area of sign* shall mean the entire background area of a sign upon which copy could be placed. In computing the area of a sign background, only that face or faces which can be seen from any one direction at one time shall be counted.~~

~~*Background traffic* shall mean traffic on the public arterial roads network not attributable to the proposed development order.~~

~~*Backyard chicken(s)* shall mean chickens and ducks kept as an accessory use to a single-family residential unit for personal (non-commercial) use. Poultry or fowl, other than chickens and ducks, are not considered backyard chickens and are prohibited.~~

~~*Banner* shall mean any sign having the characters, letters, illustrations or ornamentation applied to cloth, paper, balloons or fabric of any kind with such material serving as the foundation. The term "banner" shall also include pennant or any animated, rotating and/or fluttering device, with or without lettering for design, and manufactured and placed for the purpose of attracting attention.~~

~~*Banner sign* shall mean a temporary on-site sign made of canvas or other flexible materials with or without a structural frame and attached to a building, canopy, pole or other structure.~~

Bar shall mean premises devoted primarily to the retailing and drinking of malt, vinous or other alcoholic beverages, or any other premises where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable for consumption on the premises. The term "bar" shall include the terms "saloon," "tavern," "pub," "barroom," "cocktail lounge" and "cabaret."

Base flood shall mean the flood having a ~~one~~ 1-percent chance of being equaled or exceeded in any given year ~~(also called, as defined in the "100-year flood" and the "regulatory flood"). Base flood is the term used throughout this~~ Florida Building Code.

Base flood elevation (BFE), as defined in the Florida Building Code, means the water surface elevation associated with of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

Basement shall mean a story that is not a story above grade plane, as defined by the Florida Building Code. This definition of “basement” does not apply to the provisions of Chapter 1612 for flood loads.

Basement (for flood loads) shall mean that portion of a building having its floor subgrade (below ground level) on all sides, as defined by the Florida Building Code. This definition of “basement” is limited in application to the provisions of Section 1612 of the Florida Building Code.

Bay. A part of a structure, as a building, that is marked off by vertical elements A bay window; a recess or opening in a wall; an extension of a building-wing.

Bed and breakfast homestay shall mean an owner-occupied building used as a single-family residential dwelling that provides overnight lodging and breakfast to transient, paying guests. The homestay use is to be incidental to the primary use as a private residence. *inn* shall mean a family home structure, with no more than 15 sleeping rooms, which has been modified to serve as a transient public lodging establishing, which provides the accommodation and meal services generally offered by a bed and breakfast inn, and which is recognized as a bed and breakfast inn in the community in which it is situated or by the hospitality industry, as defined by F.S. 509.242.

Bicycle facilities shall mean a general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities, maps, all bikeways, and shared use of roadways not specifically designed for bicycle use.

Bikeways shall mean any road, path or way which in some manner is specifically designated as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

~~*Billboard* shall mean any sign over 200 square feet in area, including any ground sign or sign mounted on a building or other structure.~~

~~*Blade sign* shall mean a sign frame with a mounting bracket that is typically maintained perpendicular to the wall.~~

Blood banks and laboratories are premises that offer cash or any other form of compensation for drawing blood or plasma.

Block shall mean a group of lots existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name through which it may be identified.

Boathouse shall mean an accessory structure designed solely for the protection or storage of watercraft.

Bracket. A projection from a vertical surface providing support under cornices, balconies, window frames, etc. (Sometimes used to describe a metal fastener.)

Breakaway wall shall mean a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Breezeway shall mean a roofed, open-air passageway connecting two structures.

Buffer. A designated area between two uses deemed incompatible with each other, or along the perimeter of a natural feature to be protected from an incompatible use, or along the perimeter of that use, which will absorb or otherwise preclude such incompatibility by some combination of construction design, vegetation plantings, fences and/or maintenance practices which shall be permanently maintained.

~~*Buffer* shall mean upland areas adjacent to wetlands which are necessary to protect the wetlands and wetland species from the detrimental impacts of development or alteration. The buffer shall include canopy, understory and groundcover which consists of preserved existing vegetation or planted native species.~~

Buildable area shall mean that portion of a lot excluding the front, rear, side or waterfront yards as set forth in the single-family residential or two-family residential classification in division 3, article III of chapter 3.

Building shall mean any structure, ~~including lunch wagons, dining cars, trailers, mobile homes, sheds, garages, carports, animal kennels, storerooms, billboards, signs, gasoline pumps, and similar structures, whether stationary used or movable intended for supporting or sheltering any use or occupancy, as defined by the Florida Building Code.~~ Also see "Structure."

Building frontage shall mean each lineal foot, or major portion thereof, measured along the main entry side of a building. Where buildings form an "L" or "U," all main entry sides are measured.

Building height shall mean the vertical distance from the finished grade, along the front of the structure, to the highest point of a flat roof, or to the deck line of a mansard roof; or to the average distance between eaves and ridge for gable, hip and gambrel roofs; or, if no roof, to the highest point of any structure, or communication tower. For developments within the Nodes and Corridors and the SEMUA/TOD overlay districts, building height is measured to the bottom of the eave or the base of the parapet.

~~*Building line* shall mean the line established by minimum yard requirements outside of which no principal structure may be erected.~~

Building permit shall mean the permit required by section ~~403~~105 of the state building code, as adopted by the City.

Building, principal, shall mean the building in which the principal use conducted on the lot is located.

Building setback line shall mean that line parallel to and of the same configuration as the lot line, and which is located behind the ~~front~~respective lot ~~line~~lines, the minimum distance required by the ~~front~~ yard requirements of this Code, ~~in front~~inside of which no structure shall be permitted, erected or placed. See "Yard" definition.

Bulkhead shall mean, as defined by F.A.C. 62B-41.002, a structure or vertical partition designed primarily to retain or prevent slidingslumping of the land. ~~A secondary purpose is to protect the upland soil mass. A bulkhead may also provide a level of protection against damage from erosion by wave or current action; a form of rigid armoring.~~

Bulkhead line shall mean a governmentally ordered, legally described line, established ~~in or along a river, watercourse or other body of water, that establishes the minimum distance from the water any property improvements must be located. The term "bulkhead line" shall include the term "seawall line."~~pursuant to F.S. 253.1221, at the line of mean high water or ordinary high water.

Cafeteria shall mean premises where a variety of foods and beverages are prepared in advance and then selected by customers from a buffet for consumption on the premises.

~~*Caliper* shall mean trunk diameter measurement of nursery grown trees. The trunk caliper (trunk diameter) is measured six inches from the ground on trees up to and including four inches in caliper, and 12 inches above the ground for larger trees. Since trunks are seldom round, the average of the largest diameter and that perpendicular to it is referred to as caliper. Any accurate device including a diameter tape may be used to measure caliper.~~

~~*Camouflaged communication tower* shall mean a communication tower designed to reasonably blend into the existing surroundings and be disguised so as to not have the appearance of a communication tower. Such structures shall be considered communication towers and not spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level for purposes of applying height limitations.~~

Camper. See "Mobile recreational shelters and vehicles."

Campground. See "Recreational vehicle park."

Canopy, permanent, shall mean a permanent structure ~~constructed or architectural projection~~ of rigid materials, ~~including but not limited to metal, wood, concrete, plastic, glass, construction over~~ which a covering is attached ~~to and that provides weather protection, identity or decoration. A canopy is permitted to be structurally independent or supported by attachment to a building or on one or more sides, as defined by columns, poles or braces extended to the ground~~Florida Building Code.

~~*Canopy sign* shall mean a sign which is suspended from, attached to, printed on, supported from or forming a part of a canopy.~~

Capacity enhancement agreement shall mean and refer to an agreement between the school board and an applicant providing for sufficient capacity to accommodate the additional students that will be generated by a development permit or Comprehensive Plan amendment that may also certify to the City that the school board will have sufficient capacity to accommodate the additional students generated by approval of the development permit or Comprehensive Plan amendment.

Carport shall mean an unenclosed structure or portion of a principal building, consisting of a roof and designed or used for the storage of motor vehicles owned or used by the occupants of the premises and/or their guest.

Carwash shall mean a structure containing specialized mechanical apparatus and facilities for washing motor vehicles.

Catering services shall mean premises where a variety of foods and beverages are primarily prepared in advance and then delivered to customers for consumption off the premises.

~~*Changeable copy sign* shall mean a sign which has message characters that are not permanently attached to the sign, but which are attached to permit numerous changes of the message at the sign site without the repainting of any part of the sign or removal of any parts of the sign except the characters to be changed; also called a readerboard.~~

Church. See "House of worship."

City shall mean the City of DeBary, Florida.

City Council shall mean the ~~five~~-elected members of the City Council.

City Forester~~*Arborist*~~ shall mean a person trained in the management and care of trees and forests designated by the City to administer the applicable provisions of this Code.

City Manager shall mean the chief administrative officer for the City.

City property shall mean land and appurtenances owned by the City.

City staff shall mean and refer to City employees, City consultants, those companies, governments, individuals and other entities under contract with the City to provide services to or for the City.

Classified shall mean a zoning classification of the zoning regulations.

~~*Clear trunk* shall mean height measurement of the base portion of a tree trunk which is void of any foliage or branching measured from the natural soil line to the base of the lowest branches or fronds.~~

Clearing shall mean the removal of any trees or brush from the land, ~~but shall not include mowing or grubbing~~including the removal of any wetland vegetation, vegetation in its natural state, brush and trees of any size, except as provided in chapter 4, ~~article III, division 2-8.~~

Clinics:

(1) (1)—*Medical* shall mean outpatient premises where patients, ~~who are not lodged overnight~~, are admitted for examination and treatment by one or more persons practicing any form of the human healing arts, whether they are medical doctors, chiropractors, osteopaths, chiropodists, optometrists, or any similar professional licensed by the state. The term does not include a veterinarian clinic.

(2) (2)—*Dental* shall mean outpatient premises where patients, ~~who are not lodged overnight~~, are admitted for examination and treatment by one or more persons practicing dentistry and licensed by the state.

(3) (3)—*Veterinary* shall mean premises for the medical and surgical care of sick or injured animals, with limited overnight facilities.

Closure shall mean the termination of any regulated or prohibited nonresidential land use or activity covered by this Code.

~~Clothing donation box shall mean any receptacle used for the collection of used clothing, shoes, and small household items donated by the public for redistribution.~~

Club, night, shall mean commercial premises where food, alcoholic beverages or other refreshments may be obtained for consumption on the premises and where floor shows or other forms of entertainment may be provided for the customers.

Club, private, shall mean nonprofit associations and organizations of a fraternal, social, leisure or recreational character.

Cluster subdivision shall mean a development in which building lots may be reduced in size and buildings sited closer together, usually in groups or clusters; provided that the total development density does not exceed that which could be constructed on the site under ~~conventional zoning classification~~ the future land use category. The additional land that remains undeveloped is then preserved as common open space.

~~Collector road shall mean a route providing service which is of relatively moderate, average traffic volume, moderately average trip length, and moderately average operating speed. These routes also collect and distribute traffic between local roads and/or arterial roads and serve as a linkage between land access and mobility needs.~~

~~Collocation shall mean the placement of more than one communication antenna by more than one telecommunications service provider on a single existing or new communication tower or other supporting structure.~~

Colonnade. A roofed structure supported by columns.

Commercial. As used in F.S. 166.04151(7), any use involving in part or in whole the sale of merchandise, materials or services, excluding properties that are used for medical or institutional purposes such as hospitals and clinics, and general offices.

Common open space shall mean a commonly owned area of land reserved and designed for the leisure or recreational use of the owners of a residential development and may include recreational facilities. Common open space can be referred to as public space when including recreation facilities, or in nonresidential uses, such features as plazas or courtyards.

~~Communication tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, amateur operator radio towers, cellular telephone towers, alternative tower structures, associated equipment structures, and the like.~~

~~(1) Monopole tower shall mean a single, self-supporting communication tower of spin-cast concrete, concrete, steel or other similar materials containing no guy wires.~~

~~(2) Self-supporting lattice tower shall mean a communication tower which is self-supporting and has three or more sides of open framed supports.~~

~~(3) Guyed tower shall mean a communication tower which is anchored with guy wires.~~

Community residential home shall mean a dwelling unit licensed to serve residents who are clients of the state department of children and family services, Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health Care Administration which provides a living environment for ~~seven~~⁷ to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents, as defined by F.S. 419.001. Pursuant to ~~Florida Statutes Chapter F.S. 419.001(2)~~, homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a ~~non-commercial~~noncommercial, residential use for the purpose of local laws and ordinances. Community residential homes ~~Homes~~ of six or fewer residents which otherwise meet the definition of a community residential home shall be allowed in single-~~and family or~~ multi-family zoning without approval ~~of~~by the local government, provided that such homes are not located within a radius of

1,000 feet of another existing such home with six or fewer residents or within a radius of 1,200 feet of another existing community residential home.

Comprehensive Plan shall mean the plan for growth and development of the City adopted by the City Council (Ordinance No. 02-10, adopted October 6, 2010, and effective December 8, 2010) pursuant to the requirements of chapter 163, part II, Florida Statutes (F.S. § 163.2511 et seq.).

Concurrency shall mean to ensure that public facilities and services needed to support development are available concurrent with the impacts of such developments.

Connectivity. The ability for pedestrians to flow between developments; the relationship of different building functions; the relationship of buildings to site amenities.

Consistency, Comprehensive Plan, shall mean this Code, or any provision thereof, is consistent with the Comprehensive Plan if it is not in conflict with and takes action in the direction of realizing the Comprehensive Plan's goals, objectives, or policies.

~~*Constrained arterial* shall mean a state, local or county roadway upon which adding two or more through lanes to meet current or future traffic needs is not possible because of physical or policy barriers.~~

Construction and demolition debris shall mean discarded materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, including such debris from construction of structures at a site remote from the construction or demolition project site. The term includes rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project; clean cardboard, paper, plastic, wood, and metal scraps from a construction project; except as provided in F.S. § 403.707(13)(f), unpainted, nontreated wood scraps from facilities manufacturing materials used for construction of structures or their components and unpainted, nontreated wood pallets, provided the wood scraps and pallets are separated from other solid waste where generated and the generator of such wood scraps or pallets implements reasonable practices of the generating industry to minimize the commingling of wood scraps or pallets with other solid waste; and de minimis amounts of other nonhazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the construction and demolition industries. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

Construction plans shall mean drawings ~~or renderings~~, prepared by a state registered engineer or architect, showing how a specific structure, building or other improvement is to be constructed.

~~*Construction sign* shall mean a temporary sign identifying those engaged in construction on any construction site while construction is active pursuant to a valid permit issued by the City. This includes all persons or artisans participating in said construction.~~

Construction, start of, shall mean the duly permitted permanent placing or erection of construction materials into position. When excavation or removal by an existing structure has commenced in preparation for new construction, such excavation or removal shall be deemed to be the start of construction; provided that work continues thereafter until the new construction is completed. The term includes built, constructed, reconstructed, moved upon or any physical operation on the premises required for building. The term shall also include the constructing, building, raising, assembling, relocating, placing, replacing, affixing, creating, structurally altering, painting, drawing, or in any other way creating or establishing a sign. It shall not include changing the copy or the customary maintenance or repair of a sign.

~~*Copy area**Context. Surroundings made up of a sign shall mean the actual area**particular combination of elements that create specific habitat.*~~

Convenience stores with gas sales, limited shall include convenience stores (excluding the ~~sign upon which letters, marks~~ sale of distilled spirits with a higher alcoholic content than malt beverages or ~~symbols~~ fermented wines) with no more than eight (4) vehicular service positions per fuel dispenser island. Maximum of four (4) fuel dispenser islands.

~~Convenience stores with gas sales, are applied to any background area. (See "Background area of a sign.") stores that have more than four (4) vehicular service positions per fuel dispenser island.~~

Cornice. An ornamental molding at the meeting of the roof and wall; usually consists of bed molding, soffit, fascia and crown molding.

Corridor. A lineal geographic system incorporating transportation and/or greenway trajectories.

County shall mean the County of Volusia, Florida.

~~Cross-sectional area shall mean the area of the trunk of a tree taken 4½ feet above the base of the tree measured perpendicular to the axis of the trunk.~~

Damage shall mean harm or loss resulting from injury to property that causes a loss of value or impairment of its usefulness.

~~Damage (trees) shall mean abuse to any plant material through actions or inactions which have caused severe decline, disfigurement, discoloration, defoliation, removal or death of the plant. "Abuse," as used in this definition, includes but is not limited to failure to properly water, fertilize, control pests and fungus, or prune; physically or chemically damaging a plant by cutting the main plant leader stem, removing any mature wood larger than three inches in diameter, topping or heading back, reducing the total circumference or canopy spread by more than one-third, burning, cutting, scarring, painting, or poisoning of trees.~~

~~Datam~~Dark-sky compliance shall mean denoting or located in a place where the darkness of the night sky is relatively free of interference from artificial light.

Datum shall mean a reference surface used to ensure that all elevation records are properly related. Many communities have their own datum that was developed before there was a national standard. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

Day care center shall mean the premises where more than five persons, other than members of the immediate family occupying the premises, are kept under supervision. The term "day care center" includes day nurseries, kindergartens, day care services, day care center, day care agency, nursery school, play school, preschool or any other terms indicating that persons are under day care control; provided, however, this term does not include family day care homes as defined in F.S. § 402.302.

Day labor services are employment agencies offering day labor services and where workers congregate at the business location to receive daily assignments.

De minimis impact shall mean and refer to a development permit or Comprehensive Plan amendment that would, if approved, ultimately result in the equivalent of the net increase of less than ten (10) residential dwelling units. However, a development permit or Comprehensive Plan amendment for a property shall not be deemed to have a de minimis impact if, when the impact from a development permit or Comprehensive Plan amendment for such property is aggregated with a development permit or Comprehensive Plan amendment for adjacent property or other properties with a common or related development plan or common or related owner, the increase in the number of residential dwelling units equals or exceeds ten residential dwelling units.

Density shall mean the measure of the quantity of development activity in relation to the size of the site area within which the development occurs. Residential density is measured by the number of dwelling units per gross site area (in acres) ~~less: (i) land used for publicly, not including dedicated or privately owned rights-of-way; (ii) transmission and power line easements; (iii) lakes and areas defined as wetlands; and (iv) floodprone and preservation areas.~~ Density, and is also regulated by establishing a minimum lot size ~~and other development standards.~~ In the determination of the number of residential dwelling units to be permitted on a specific parcel, a fractional unit shall not entitle the applicant to an additional unit. Nonresidential density (also referred to as intensity) is measured by "floor area ratio," (FAR), which is the ratio of the total gross floor area of buildings on a site to the gross area of the site itself.

For purposes of calculating residential density for development within the Southeast Mixed-Use Area (SEMUA) and the Southwest Mixed-Use Area (SWMUA) Future Land Use designations, land used for publicly dedicated or privately owned rights-of-way is not lessened out of the gross site area. Up to 75 percent

of a Southeast Mixed-Use Area (SEMUA) and the Southwest Mixed-Use Area (SWMUA) Future Land Use development site's wetlands, lakes, flood-prone and preservation areas may be counted toward developable land (thus, not lessed out of the gross site area for density calculation) when the Development Review Committee determines that such areas are to be preserved, and adequately amenitized by making these natural features accessible for passive recreational use and commitments concerning such are identified in either a Planned Unit Development, Overall Development Plan, or a Preliminary Plat and Construction Plan.

~~*Designated arterial* shall mean an arterial, the location of which is defined with sufficient specificity so that a legal description may be derived therefrom and so that persons owning property affected thereby may be in a position to determine the nature and extent of such effect.~~

~~*Deteriorated tree* shall mean degenerated or damaged to the point where death of the tree is imminent or to the point where the tree poses a significant hazard.~~

Design flood. The flood associated with the greater of the following two areas, as defined in the Florida Building Code:

(1) Area with a flood plain subject to a 1-percent or greater chance of flooding in any year; or

(2) Area designated as a flood hazard area on a community's flood hazard map, or otherwise legally designated.

Design flood elevation shall mean, as defined in the Florida Building Code, the elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where a depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet (610 mm).

Developer shall mean any person engaged in developing or improving a project or group of lots for use, occupancy or sale.

Development shall mean any man-made change to improved or unimproved real estate, construction, installation, reconstruction, addition, renovation, demolition, or removal of a structure, impervious surface, or drainage facility; clearing, scraping, grubbing, killing, or otherwise removing vegetation from a site; adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, drilling operations, mining, dredging, paving, filling or otherwise significantly disturbing the soil, mud, sand, or rock of a site; or any other change to real property; or storage of materials, tanks, temporary structures, or equipment.

Development agreement shall mean an agreement between the City and one or more parties directly involved in a development project, and which may articulate special provisions or limitations applicable to the subject development. See section 2-73.9 of this Code.

~~*Development order* shall mean any order issued by granting, denying, or on behalf of the City indicating that the land uses, density or densities, arrangement of land uses, and other features of the development are approved as being consistent granting with the City's Comprehensive Plan and the general requirements of this Code, and that conditions an application for a development permit may be issued subject to all applicable technical requirements and standards, as defined by F.S. 163.3164.~~

~~*Development permit* shall mean an order issued by or on behalf of the City indicating that the development meets all procedural and technical requirements and standards and that actual physical development and construction may proceed as described in the permit. A development may require various development permits, including, but not limited to, building permits, sign permits, facility construction permits, grading permits, etc. any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance or any other official action of the City having the effect of permitting the development of land, as defined by F.S. 163.3164.~~

Development plan shall mean a document, including all attachments and explanatory and supporting materials, largely presented in the form of maps and diagrams, describing the character and extent of a proposed development project.

~~*Conceptual development plan* shall mean a less formal document submitted in order that a more general development scheme may be reviewed.~~

~~*Final development plan* shall mean a complete formal submittal submitted in order to obtain development approval preliminary to obtaining a development order and development permit.~~

Development Review Committee shall mean the group of staff members responsible for reviewing development applications and making findings of consistency between the submittals and City development regulations.

Development review fee shall mean and refer to the combination of the flat fee and the review ~~costs~~deposit to be paid by an applicant.

~~*Development sign* shall mean a temporary sign advertising the sale or rental of structures being constructed upon land which is under development.~~

~~*Diameter at breast height (DBH)* shall mean the trunk diameter of a tree measured 4½ feet above the average ground level at the base of the tree; provided, however, if the tree forks above 4½ feet above ground level, it is measured below the swell resulting from the double stem. Stems that fork below 4½ feet above ground level shall be considered separate trees.~~

Discharge and *discharge point* shall mean the outflow of water from a project, site aquifer, drainage basin or facility.

~~*Double faced sign* shall mean a sign with two copy areas which are parallel to each other and back to back with the maximum distance between the copy areas not to exceed two feet.~~

Drainage easement shall mean land in which the public or the City has an easement devoted to, planned, proposed or required for use as a public drainage system.

Drainage system and *natural drainage* shall mean surface streams or swamps which convey water to natural points of discharge.

Dredging shall mean excavation, by any means, in surface water or ~~a wetland~~wetlands, as delineated in F.S. 373.421(1). It also means the excavation, or creation, of a water body which is, or is to be, connected to surface waters, or wetlands, as delineated in F.S. 373.421(1), directly or via an excavated water ~~bodies~~body or a series of ~~excavated~~ water bodies.

~~*Drip line (tree)* shall mean the peripheral limits of the horizontal crown of a tree spread vertically to the ground; provided, however, that the same shall not be less than a circle with a ten-foot radius measured from the center of the tree, as defined by F.S. 373.403.~~

Driveway shall mean an area of land which provides vehicular access from a street to the off-street parking space of a premises.

Driveway entranceapron shall mean a portion of a driveway which immediately abuts the public right-of-way or a private street.

Due public notice or *public notice* shall mean notice given prior to a public hearing as required by this Code or by applicable provisions of state law, including, but not limited to, F.S. ~~§-166.043041~~.

Dwelling shall mean one or more rooms in a building forming a separate and independent housekeeping establishment, arranged, designed or intended to be used or occupied by one family~~household~~, and having no enclosed space or cooking or sanitary facilities in common with any other dwelling unit with no ingress or egress through any other dwelling unit, and containing permanent provisions for sleeping facilities, sanitary facilities and not more than one kitchen.

Dwelling, attached, shall mean a dwelling attached to another dwelling's foundation, wall or roof.

Dwelling, detached, shall mean a dwelling entirely surrounded by open space and not attached to another dwelling's foundation, wall or roof.

~~*Dwelling, mobile home*, shall mean a single-family dwelling fabricated in a manufacturing facility, having a width of more than eight feet and a length of more than 40 feet, and bearing a seal certifying it is constructed either to the Federal Manufactured Housing Construction and Safety Standards Code or to obsolete ANSI 119.1 Mobile Home Design and Construction Standards.~~

Dwelling, mobile home, shall mean a structure, transportable in one or more sections, which, in the traveling mode, is eight (8) feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred (300) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such terms shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act, provided by Congress in the original 1974 Manufactured Housing Act. In 1979 the term "mobile home" was changed to "manufactured home." For purposes of this Code, the terms mobile home and manufactured home are synonymous. When assembled, manufactured homes built after 1976 contain no less than 320 square feet. They may be single or multi-sectioned units when installed. Their designation as personalty or realty will be determined by State law. When determined to be realty, most are eligible for conventional mortgage financing.

Dwelling, model, shall mean any new dwelling temporarily used by the building/developer for the purpose of on-site sales, construction or security of the type of dwelling he is constructing only in the development in which it is located.

~~*Dwelling, modular-multifamily*, shall mean a dwelling fabricated in a manufacturing facility and bearing a seal certifying it is constructed to standards as adopted under the authority of F.S. § 553.35355 et seq., and rules adopted by the state departmentState Department of community affairsBusiness and Professional Regulation under F.A.C. ch. 9B-161-41 et seq. A modular dwelling unit shall be deemed a Single Family dwelling and shall not be deemed a Mobile Home Dwelling.~~

~~*Dwelling, multiple-familymultifamily*, shall mean a building containing threefour or more dwellings intended to be occupied primarilydwelling units, attached by permanent residentsa common wall, with the number of families in residence not exceeding the number of dwelling units provided. The term includes apartments and condominiums and does not include duplexes, triplexes, or townhomes.~~

~~*Dwelling, single-family*, shall mean a building containing only one dwelling.~~

~~*Dwelling, standard*, shall mean a detached dwelling unit on the site where it is to be occupied and constructed to the state building code, as adopted by the City Council, other than a mobile home, sharing no walls with another dwelling unit.~~

~~*Dwelling, two-family*, shall mean a building containing only two dwellingstwo dwelling units attached by a common party wall or firewall. The term "duplex" is synonymous.~~

~~*Effectively destroy (tree)* shall mean to cause, suffer, allow or permit any act which will cause a tree to die or go into a period of unnatural decline within a period of two years from the date of the act. Acts which may effectively destroy a tree include, but are not limited to, damage inflicted upon the root system by heavy machinery, excessive trimming, changing the natural grade above the root system or around the trunk, damage inflicted on the tree permitting infection or pest infestation, application of herbicides or other chemical agents or intentional fire damage to the tree permitting infection or pest infestation, the infliction of a trunk wound that is 50 percent or greater of the circumference of the trunk, or the removal of sufficient canopy to cause the unnatural decline of the tree.~~

Dwelling, three-family, shall mean a building containing three dwellings units attached by a common party wall or firewall. The term "triplex" is synonymous.

Efficiency unit shall mean a dwelling consisting of not more than one room in addition to kitchen and bath. It is synonymous with "studio unit."

~~Electric sign. See "Illuminated sign."~~

~~Electronic message center shall mean a sign capable of displaying words and symbols that can be electronically or mechanically changed by remote or automatic means.~~

Elevated building shall mean a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

Emergency repairs shall mean work necessary to protect and preserve life and property of inhabitants of the City.

Enclosed storage area shall mean an area that is surrounded on all sides by a continuously connected fence or wall except where it is necessary to provide for pedestrian or vehicle openings.

~~Encroachment shall mean the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.~~

Engineer shall mean a professional engineer registered by the state and qualified to provide engineering services applicable to land development and construction.

~~Entertainment and recreational uses and structures shall mean any for-profit use or structure whose primary purpose is for recreation or entertainment such as go-cart tracks, water slides, driving ranges independent of golf courses, miniature golf courses, etc.~~

~~Entrance sign shall mean an identification structure located at the main entrance to a City approved subdivision or development. The only advertising on the structure shall be the name of the subdivision or development.~~

Environmentally sensitive lands shall mean lands and/or associated waters which provide ecologically important or vital resources, particularly those ecological communities which are locally or regionally rare or threatened, or which provide habitat for wildlife species which are officially listed as endangered, threatened, or of special concern (also referred to as "critical habitat"). Examples of environmentally sensitive lands include, but are not limited to: wetlands; upland fringes of wetlands and shorelines; hardwood hammocks; and areas designated for the purpose of conserving or protecting natural resources of environmental quality.

EPA shall mean the United States Environmental Protection Agency.

~~Equivalent residential unit (ERU) shall mean a measure of consumption for potable water and sanitary sewer services.~~

Erected. See "Construction, start of."

Erosion shall mean:

~~(1) (4)~~—The wearing away of the land by running water, wind or other geological agents, including such processes as gravitational creep;

~~(2) (2)~~—Detachment and movement of soil or rock fragments by water, wind or gravity.

Erosion and sedimentation control plan shall mean a plan for the control of erosion and sedimentation resulting from a land disturbing activity.

Essential utility services shall mean publicly owned or regulated utility distribution systems for gas, water, sewer, telephone, television, radio or electricity of 230 kilovolts or less, including poles, wires, mains, drains, sewers, pipes, lift stations, conduits, cable towers, digital loop carriers, and antennas 70 feet or less in height, and other similar equipment and accessories which are necessary for furnishing of service by such public utilities, but not including electric power plants, substations, water tanks, gas transfer stations, and water and sewage treatment plants, buildings, and municipal water supply wells.

Excavation shall mean the hollowing out, removal by digging or leveling of any land, dirt, sand, clay, soil, rock, solid minerals or other soil materials.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced before November 23, 1973. [Also defined in FBC, B, Section 1612.2.]

Existing construction shall mean for the purposes of floodplain management, structures for which "the start of construction" commenced before the date of the initial Flood Insurance Rate Map (FIRM). Existing construction means for the purposes of determining rates structures for which the "start of construction" commenced before the effective date of the first FIRM or before January 1, 1975, for FIRMs effective before that date. This term may also be referred to as "existing structures."

Existing manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date, ~~December 31, 1974~~(November 23, 1973), of the floodplain management regulations adopted by the community.

Expansion to an existing manufactured home park or subdivision shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Expression line shall mean a horizontal line the full length of a façade expressed by material change or by a continuous projection such as molding or cornice not less than 2 inches or greater than 1-foot depth. Expression lines delineate the transition between the floor levels, creating a clear visual division between upper and lower floors.

FAA shall mean The Federal Aviation Administration.

F.A.C. shall mean The Florida Administrative Code.

Facade shall mean that portion of any exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.

Family shall mean ~~any one of the following when living together in a dwelling unit or using it as a common place of abode for 30 days or more in any 90-day period:~~

~~(1) A natural family household composed of one or more persons who are all related to each other by law, blood, marriage, or adoption, as defined by F.A.C. 67-48.002~~

~~(2) A group of persons living together in a facility licensed by the state department of children and family services in accordance with F.S. § 419.001(2), or amendments thereto.~~

~~(3) A maximum of two unrelated persons.~~

~~*Family in-home day care* shall mean the operation of a residence as a family day care home as defined by F.S. § 166.0445 and that is registered or licensed by the Department of Children and Family Services.~~

Family day care home shall mean, in accordance with F.S. § 402.302, an occupied residence in which childcare is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child care, shall be included in the overall capacity of the licensed home. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

(1) A maximum of four children from birth to 12 months of age.

(2) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.

(3) A maximum of six preschool children if all are older than 12 months of age.

(4) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

Farm animal, animal raised for subsistence or profit or kept for use such as cattle, sheep, pigs, ducks, goats and poultry.

FCC shall mean The Federal Communications Commission.

~~*Federal manufactured housing construction and safety standard codes* shall mean Title VI of the 1974 Housing and Community Development Act (42 USC 5401 et seq.), as amended (previously known as the Federal Mobile Home Construction and Safety Standards), rules and regulations adopted thereunder (including information supplied by the home manufacturer, which has been stamped and approved by a design approval primary inspection agency, an agent of the U.S. Department of Housing and Urban Development pursuant to HUD rules), and regulations and interpretations of said code by the state department of highway safety and motor vehicles, bureau of mobile home construction; all of which became effective for mobile/manufactured home construction on June 15, 1976.~~

FEMA shall mean the Federal Emergency Management Agency. The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Fence shall mean a barrier, usually comprised of wooden or metal posts, rails or wire mesh, used as a boundary marker or means of protection or confinement.

Fenestration shall mean the arrangement of windows and doors on a facade.

~~*Filling* shall mean the deposit or burial, by any means, of materials, such as land-clearing debris, soil, rock or other solid minerals, onto any land, water in surface waters or wetlands. The term "filling" does not include permitted landfills with garbage or other similar waste matter; landfilling.~~

~~*Final development order* shall mean a building permit, final site plan development order or final plat development order, as delineated in F.S. 373.421(1), as defined by F.S. 373.403.~~

Final site plan shall mean the plan required by ~~division 3, article II of chapter 4~~Sec. 3.23, in order to obtain a development order or permit which demonstrates the manner in which the developer shall conform with the requirements of this Code.

Final site plan, minor, shall mean the plan required by Sec. 3.24 which meets the definition of "Minor site improvement", in order to obtain a development order or permit which demonstrates the manner in which the developer shall conform with the requirements of this Code.

Financial institutions shall mean an establishment for the custody, loan, exchange or issue of money for extension of credit and for facilitating the transmission of funds. The terms "bank," "savings and loan," "loan company" and "credit union" are synonymous.

Findings of fact shall mean a determination by the City Council or Special Magistrate supported by competent substantial evidence in the record.

Finished grade shall mean the ~~completed~~complete surface of lawns, walks or driveways brought to the grade shown on any approved building plans.

~~*Fireworks sales* shall mean the on-site wholesale or retail sale of products that are burned or explode to produce noises or light effects commonly used in celebrations, the sale of which constitutes at least 25 percent of gross sales or occupied floor space of an establishment.~~

Fireworks sales shall mean the on-site wholesale or retail sale of any combustible or explosive composition or substance or combination of substances or, except as provided by State Statutes, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. The term includes blank cartridges and toy cannons in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, roman candles, dago bombs, and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance, as defined by F.S. 791.01(4)(a).

Pursuant to F.S. 791.01(4)(b), the term does not include sparklers approved by the Division of the State Fire Marshal of the Department of Financial Services pursuant to F.S. 791.013; toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap

when in place for the explosion; and toy pistol paper caps which contain less than twenty hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times.

Pursuant to F.S. 791.01(4)(c), the term also does not include the following novelties and trick noisemakers:

- (1) A snake or glow worm, which is a pressed pellet of not more than 10 grams of pyrotechnic composition that produces a large, snakelike ash which expands in length as the pellet burns and that does not contain mercuric thiocyanate;
- (2) A smoke device, which is a tube or sphere containing not more than 10 grams of pyrotechnic composition that, upon burning, produces white or colored smoke as the primary effect; and
- (3) A trick noisemaker, which is a device that produces a small report intended to surprise the user and which includes:
 - a. A party popper, which is a small plastic or paper device containing not more than 16 milligrams of explosive composition that is friction sensitive, which is ignited by pulling a string protruding from the device, and which expels a paper streamer and produces a small report;
 - b. A booby trap, which is a small tube with a string protruding from both ends containing not more than 16 milligrams of explosive compound, which is ignited by pulling the ends of the string, and which produces a small report;
 - c. A snapper, which is a small, paper-wrapped device containing not more than 4 milligrams of explosive composition coated on small bits of sand, and which, when dropped, explodes, producing a small report; A snapper may not contain more than 250 milligrams of total sand and explosive composition;
 - d. A trick match, which is a kitchen or book match which is coated with not more than 16 milligrams of explosive or pyrotechnic composition and which, upon ignition, produces a small report or shower of sparks;
 - e. A cigarette load, which is a small wooden peg that has been coated with not more than 16 milligrams of explosive composition and which produces, upon ignition of a cigarette containing one of the pegs, a small report; and
 - f. An auto burglar alarm, which is a tube which contains not more than 10 grams of pyrotechnic composition that produces a loud whistle or smoke when ignited and which is ignited by use of a squib. A small quantity of explosive, not exceeding 50 milligrams, may also be used to produce a small report.

Fixture shall mean the device that holds, protects, and provides the optical system and power connections for a lamp.

Flag shall mean a piece of fabric of distinctive design, color or pattern that is used as a symbol of some country, state, county, city, political party, organization or other entity.

~~*Flashing sign.* See "Animated sign."~~

Flood or flooding shall mean:

~~(1) A general and temporary condition of partial or complete inundation of normally dry land areas from: from, as defined by the Florida Building Code:~~

~~(1) a.—The overflow of inland or tidal waters;~~

~~(2) b.—The unusual and rapid accumulation of surface water runoff from any source.~~

~~c.—Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection (1)b. of this definition and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.~~

- ~~(2) The collapse or subsidence of land along a shore of a lake or other body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)a of this definition.~~

~~*Flood boundary and floodway map (FBFM)* shall mean the official map of the community on which FEMA has delineated the areas of special flood hazard and regulatory floodways.~~

~~*Flood fringe* shall mean that area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis. *Flood damage-resistant materials.* Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair, as defined by the Florida Building Code.~~

~~*Flood hazard area.* The greater of the following two areas, as defined by the Florida Building Code:~~

- ~~(1) The area within a flood plain subject to a 1-percent or greater chance of flooding in any year.~~
~~(2) The area designated as a flood hazard area on a community's flood hazard map, or otherwise legally designated.~~

~~*Flood hazard boundary map (FHBM)* shall mean an official~~the~~ map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been defined as only approximate zone A. Federal Insurance Administrator of FEMA, delineating Zones A, M, and E within a community, as per C.F.R. Title 44, Part 64.~~

~~*Flood insurance rate map (FIRM)* shall mean an official map of a community, issued by FEMA, on which FEMA has delineated both the areas of special flood hazard areas and the risk premium zones applicable to the community, as defined by the Florida Building Code.~~

~~*Flood insurance study (FIS)* shall mean the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the flood boundary floodway map and containing the Flood Insurance Rate Map (FIRM), the Flood Boundary and Floodway Map (FBFM), the water surface elevation of the base flood. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM, FHBM (where applicable), and other related and supporting technical data and information, as defined by the Florida Building Code.~~

~~*Floodlight* shall mean a reflector-type light fixture which is attached directly to a building and which is unshielded.~~

~~*Floodplain**Flood plain or flood-prone area* shall mean any land area susceptible to being inundated by water from any source, as defined by C.F.R. Title 44, Part 59. See definition of "Flooding"-. "~~

~~*Floodplain administrator* shall mean the individual appointed to administer and enforce the floodplain management regulations of the community.~~

~~*Floodplain development permit or approval.* An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this article.~~

~~*Floodplain management* shall mean the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.~~

~~*Floodplain management regulations* shall mean this Code and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power which control~~

development in floodprone areas. This term describes Federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing shall mean ~~any combination of structural and nonstructural additions, changes, or adjustments to individual structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary and facilities, structures their sites, and their contents, to protect against structural failure, to keep water out, or to reduce effects of water entry, as per C.F.R. Title 44, Part 9.~~

Floodway shall mean the channel of ~~a~~ river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot. a designated height, as defined by the Florida Building Code.~~

Floodway encroachment analysis. An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models accepted by the Federal Emergency Management Agency.

Floor shall mean the top surface of an enclosed area in a building (including basement, garage), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

Floor area shall mean ~~the sum of the gross horizontal heated areas of the several floors of a dwelling measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but excluding:~~

- ~~(1) Unheated attic areas with a headroom of less than seven feet;~~
- ~~(2) Unenclosed stairs or fire escape;~~
- ~~(3) Elevator structures;~~
- ~~(4) Cooling towers;~~
- ~~(5) Areas devoted to air conditioning, ventilating or heating or other building machinery and equipment;~~
- ~~(6) Vehicle parking structures;~~
- ~~(7) Unheated basement space not devoted to residential use;~~
- ~~(8) Porches, patios, breezeways, sun porches or other similar structural additions that are unenclosed or are enclosed with screening.~~

Gross floor area shall mean, as defined by the Florida Building Code, the floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, ramps, closets, the thickness of interior walls, columns, or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the useable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

Floor area, net shall mean, as defined by the Florida Building Code the actual occupied area not including unoccupied accessory areas such as corridors, stairways, ramps, toilet rooms, mechanical rooms and closets

Floor area ratio (FAR) shall mean ~~a measurement of the intensity of development~~ the floor area of a building or buildings on a site. The floor area ratio is the relationship between the total floor area on a site and the gross site area. The FAR is calculated by adding together all floor areas of all floors lot divided by the lot area.

Florida Building Code. The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Florida friendly landscaping. Describes landscaping practices, which includes nine guiding principles that help to preserve Florida's natural resources and ~~dividing~~ protect the environment as defined by F.S.

373.185 (www.swfwmd.state.fl.us/yards/ or www.floridayards.org/), as well as being maintained in accordance with this total byCode and the gross-site-areaCity's Code of Ordinances.

~~*Florida-registered* shall mean currently registered to practice a profession in the state.~~

~~*Frame effect* shall mean a visual effect on an electronic message center applied to a single frame to transition from one message to the next.~~

~~*Free of obstruction* shall mean any type of lower area enclosure or other construction element that will obstruct the flow of velocity water and wave action beneath the lowest horizontal structural member of the lowest floor of an elevated building during a base flood event is not allowed. This requirement applies to the structures in velocity zones (V-Zones).~~

~~*Freeboard* shall mean the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, bridge openings and hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected frequency flood and floodway conditions.~~

~~*Freestanding sign.* See "Ground sign."~~

~~*Frontage* shall mean the distance abutting a street, measured in linear feet. *Frontage* see "Frontage, Street" definition.~~

~~*Frontage, building*, shall mean the length of an exterior building wall along a street right-of-way.~~

~~*Frontage, street*, shall mean the length of the lot line of any one premises along the street right-of-way line on which the lot borders.~~

~~*Frontage street facade* shall mean that portion of the facade which is visible from any street. Only one street facade shall be designated as frontage street facade.~~

~~*Full circulation parking lot* shall mean a parking lot design which permits a car entering a parking lot to circulate in front of all parking stalls and restart the same movement again without using the public right-of-way.~~

~~*Full cutoff.* A luminaire light distribution where zero candela intensity occurs at or above an angle of 90 above nadir. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 10 (ten percent) at or above a vertical angle of 80 above nadir. This applies to all lateral angles around the luminaire.~~

~~*Fully-shielded light fixture.* A lighting fixture constructed in such a manner that the light source is not visible when viewed from the side and all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.~~

~~*Functionally dependent use* shall mean a use that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not include longterm storage, manufacture, sales, or service facilities.~~

~~*Gallery* shall mean a covered and pedestrian oriented space often along the ground-floor of a building or surrounding an open space.~~

~~*Garage sales* shall mean the sale of household goods and personal property of the occupant of the premises; providing that no more than two such sales are held during any calendar year and that such sales are limited to a duration of ~~one week~~three days.~~

~~*General office* shall mean a premises on which the administrative, managerial services of a business, person, government, ~~etc., an architect, engineer, attorney, accountant and consultant services~~ are carried out in a room, a series of rooms or in a building solely devoted to such use.~~

General retail uses include art galleries, art, dance, modeling and music schools and gymnastics, retail paints and wallpaper stores, retail sales and services, florist and gift shops, luggage shop, retail sales and services, pet grooming, pet stores, book and stationery stores, hardware stores, hobby and craft stores, jewelry stores, outdoor display of retail merchandise (refer to Chapter 4, confectioners, and ice cream shops (including preparation of products for sale on the premises), bakeries (including preparation of products for sale on the premises) - excluding sales or rental of automobiles, motorcycles, trucks, motor homes, or travel trailers, automobile driving schools, boat or mobile home sales and services.

Glazing. The panes or sheets of glass or other non-glass material made to be set in frames, as in windows or doors.

Golf course shall mean a relatively large premises designed and constructed to accommodate the sport of golf. The term is not intended to include independent driving ranges or miniature golf courses.

~~Governmental sign shall mean signs owned by any governmental entity.~~

Grade (of a building) shall mean when the curb level has been established, grade is the main elevation of the curb level opposite walls located on or parallel with and within 15 feet of the right-of-way line. When the curb level has not been established or all walls of a building are more than 15 feet from street lines, grade means the average of the finished ground level at the center of all walls of a building.

~~Gross floor areas shall mean the total floor area designed for occupancy and exclusive use, including basements, mezzanines, and upper floors, expressed in square feet and measured from outside wall face to outside wall face.~~

~~Ground sign shall mean a sign which is supported by one or more columns, uprights, or braces in or upon the ground and independent of any support from buildings or other structures.~~ *Green space. A naturalistic, open space that is small and civic in nature and is surrounded by buildings. Greens feature informal planting, often around a sunny central lawn.*

Green building. The practice of increasing the efficiency with which buildings and their sites use and harvest energy, water and materials through better siting, design, construction, operation, maintenance and removal, therefore reducing building impacts on human health and the environment.

Groundwater shall mean water beneath the surface of the ground, whether or not flowing through known and definite channels, as defined by F.S. 373.019.

~~Group home shall mean a facility which is subject to licensing and approval by the state department of children and family services. A group home may be, but is not limited to, an adult congregate living facility as defined in F.A.C. ch. 10A-5; an adult foster home as defined in F.A.C. ch. 10A-114; and a residential treatment facility as defined in F.A.C. ch. 10E-4. A group home consists of seven or more persons.~~ *facility shall mean, as defined by F.S. 393.063, a residential facility licensed under F.S. Chapter 393 which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least 4 but not more than 15 residents.*

Half street shall mean a street bordering one or more property lines of a tract of land in which the developer has dedicated part (or half) of the ultimate right-of-way width.

Hardscape shall mean any permanent nonliving site improvements, including but not limited to pavement, curbing, wheel stops, steps, walls, fences, fountains, sculpture, railings, lighting, irrigation fixtures, and other similar fixtures—usually consisting of poured concrete, concrete pavers and/or brick.

Hardship shall mean, as related to variances from this Code, the exceptional hardship associated with the land that would result from a failure to grant the requested variance. The community requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Hazardous substances shall mean those materials specified in section [4-254.9.40 of this Code](#).

Hazardous waste transporter facility shall mean a premises used by a person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water. Said facility means any transportation-related complex, including loading docks, parking areas, or storage areas where shipments of hazardous waste are held during the normal course of transportation.

~~*Hedge* shall mean any group of shrubs planted in line or in groups that forms a compact, dense, living barrier that protects, shields, separates, or demarcates an area from view.~~

Height within one (1) mile, as used in F.S. 166.04151, shall mean one (1) mile as can be traveled by human beings along the public streets of the City within the normal permitted lanes of travel from the center point of the proposed development site and shall not mean a straight line distance as a bird might be able to travel.

Helipads shall mean a designated landing area used primarily for the operation and basing of rotorcraft.

Highest adjacent grade shall mean the highest natural elevation of the ground surface, prior to start of construction, next to the proposed walls of a structure.

Historic structure shall mean any structure that is:

- (1) (1)—Listed individually in the National Register of Historic Places, a listing maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) (2)—Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) (3)—Individually listed on the state inventory of historic places, which has been approved by the Secretary of the Interior.
- (4) ~~Historic trees~~ shall mean a healthy cypress with a trunk DBH of 36 inches, a healthy live oak tree with a trunk DBH of 30 inches or a healthy magnolia tree with a trunk DBH of 24 inches. Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings.

Hobby breeder shall mean a use allowing for the shelter, breeding or training of dogs or cats belonging to the resident of the premises and which has been licensed as a hobby breeder by the county animal control board.

~~*Home nameplate* shall mean a nameplate not more than one square foot in area, indicating only the name of the occupant or identification of the address.~~

Hospital shall mean premises with overnight facilities providing medical or surgical care of sick or injured persons.

Hospital, animal, shall mean premises with overnight facilities for the medical or surgical care of sick or injured animals. It may also include a crematory and/or pet cemetery.

Hotel/motel shall mean premises in which sleeping accommodations are offered for rental primarily to transients. It is synonymous with "motel," "boatel," and "tourist homes or cabins."

House of worship shall mean premises used for worship and permitted customary accessory uses by an organization of religious believers.

Household moving center shall mean a business specializing exclusively in the rental of household moving trucks and utility trailers and in the sale and rental of other products and services directly related to do-it-yourself moving.

Hydrograph shall mean a graph of discharge versus time for a selected outfall point.

Hydrologic cycle shall mean the movement of water through the environment on, above and below the surface of the earth.

Hydroperiod shall mean a measure of the time (usually in days per year) that water is at or above the solid surface under normal hydrologic conditions.

~~*Identification sign* shall mean one sign per business location not more than three square feet in area, painted on a wall used to identify the name of the business located therein and/or its principals and address. The top of said sign shall be no more than eight feet above ground level.~~

~~*Illuminated sign* shall mean a sign in which a source of light is used in order to make the message readable, including internally and externally lighted signs.~~

Impervious surface area shall mean an area covered by a material which ~~does not permit~~ limits or impedes infiltration or percolation of water into the ground, ~~such as concrete pavers and asphalt, etc.~~ It is calculated by dividing the total area of all impervious surfaces by the total lot area.

Impervious surface ratio (ISR) shall mean the total area of all impervious surfaces divided by the total lot area.

Indirectly illuminating shall mean illumination as a result of the glowing elements, lamps, globes, or reflectors of an artificial light source which is not visible to a person who is in a standing position on the ground.

~~*Industry* shall mean any activity involving the manufacture, assembly, packaging, canning, bottling or processing of any item.~~

~~*Instructional sign* shall mean a sign conveying instructions or warnings with respect to the premises on which it is maintained (e.g., *Industrial, medium* shall mean an establishment whose principal purpose is the manufacturing, assembling, compounding, processing, packing, baling, repairing, storing or distribution of products made from previously prepared basic materials. Typical uses include bottling and distribution plants, cold storage and frozen food lockers, feed and seed processing and storage, and machinery and machine shops. Other uses include blood and/or plasma banks which offer compensation, industrial vocational schools, and outdoor storage (including vehicle storage) as a principal use.~~

Industrial, light shall mean an establishment whose principal purpose is the assembling, repairing, storing or distribution of products made from previously prepared basic materials. Typical activities include woodworking, welding and soldering, small engine repair, sign manufacturing, printing and publishing, and testing materials, equipment or products. Other facilities covered under this category may include building materials or equipment sales and storage, contractors' offices that include equipment storage, wholesale retail nurseries, plumbing supply, wholesale and distribution, and warehouses.

~~"Danger - Bad Dog," "Keep Off").~~

Intervisible shall mean mutually visible, or in sight, the one from the other, as stations.

Isolated wetlands shall mean wetlands that have no hydrological or vegetative connections with "waters of the state," as defined in F.S. § 403.~~032(3)-031.~~

Joint use driveway. A driveway connecting two or more contiguous sites to the public/private street systems.

Junkyard shall mean premises where junk materials such as scrapped metal, rubber tires, glass, wood scraps, plastic, tools, equipment, fixtures, appliances, construction materials, automobile parts, discarded automobiles, and paper or similar materials are bought, sold, exchanged, stored, baled, packaged, packed, disassembled or handled. The term also includes automobile wrecking ~~yard~~ and salvage yard operations, and scrapping operations. This term may also include recycling collection centers.

Kennel shall mean premises other than hobby breeders, where five or more domesticated house pets over 180 days of age or five or more class II wildlife over 180 days of age, as listed in F.A.C. ~~3968A-6.02002~~, are harbored, whether for profit or for personal use.

Kitchen shall mean any room ~~or portion thereof in a building~~ which is ~~primarily used, intended,~~ or designed to be used for cooking ~~and/or the~~ preparation of food, ~~and contains a~~ containing an oven, stove,

~~refrigerator, and sink with counter working space, adequate space and wiring or connections for installing cooking and refrigeration equipment and space for the storage of cooking utensils.~~

Lamp shall mean the source of light within a luminaire.

Land shall mean the earth, water, air above, below or on the surface, and includes any vegetation, improvements or structures customarily regarded as land. Land is intended to refer to water, marsh or swamp as well as to the solid surface of the earth. Land may also be referred to as "gross land area" or "gross acre of land."

Landfill shall mean a solid waste ~~land disposal facility, which is an area of land or an excavation where wastes are or have been placed for disposal,~~ area for which a permit, other than a general permit, is required by F.S. § 403.707, ~~or current law. This and which receives solid waste for disposal in or upon land.~~ The term ~~shall~~does not include:

- ~~(1) A~~ a ~~land-spreading site;~~
- ~~(2) A,~~ an injection well, a ~~surface impoundment;~~ or
- ~~(3) An injection well defined under and subject to a facility for the provisions disposal of F.A.C. ch. 62-28-construction and demolition debris~~

Landscape and *landscape area* shall mean ~~at grade soil planting area,~~ a planting area permanently devoted for non-vehicular use and maintained to the growing of shrubbery, grass, and other plant material or by the use of such materials as crushed stone, lava rock, or similar materials.

Landscape architect shall mean a professional landscape architect registered by the state and qualified to provide landscape design services applicable to land development.

Laundry and dry cleaning establishment shall mean a business where dry cleaning, laundering, cleaning or pressing of articles or goods of fabric is undertaken.

Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- Letter of Map Amendment (LOMA). An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area, as prescribed by C.F.R. Title 44, Part 70. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- Letter of Map Revision (LOMR). As defined by C.F.R. Title 44, Part 72, FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.
- Letter of Map Revision Based on Fill (LOMR-F). As defined by C.F.R. Title 44, Part 72, FEMA's comment on a proposed project that would, upon construction, result in a modification of the SFHA through the placement of fill outside the existing regulatory floodway
- Conditional Letter of Map Revision (CLOMR). As defined by C.F.R. Title 44, Part 72, FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the Special Flood Hazard Area (SFHA).

Level of service shall mean an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility, ~~as defined by F.S. 163.3164.~~ Level of service shall indicate the capacity per unit of demand for each public facility.

Light fixture. The complete lighting assembly (including the lamp, housing, reflectors, lenses and shields), less the support assembly (pole or mounting bracket); a light fixture.

Liner building. A liner building is a specialized building, parallel to the street, which is designed to conceal an area such as a parking lot or loading dock. Liner buildings may include commercial, office or residential uses.

Live/work unit shall mean a dwelling unit used for both residential and non-residential use permitted in the zoning classification in which the unit is located.

Livestock shall mean grazing animals kept for sale, animals such as cattle, horses, sheep, swine, goats, other hoofed animals, ostriches, emus, and rheas which are raised for food or other products or kept for use such as farm animals including meat and dairy cattle, pigs, ducks and chickens private use or commercial purposes, as defined by F.S. 585.01.

Lot shall mean a tract or parcel and means the least fractional part of subdivided lands, having limited fixed boundaries and ~~identified by~~ an assigned number, letter, number, or other name. ~~Lots through which it may be referred to in accordance with their locations; identified, as defined by F.S. 177.031.~~

(1) (1)—*Atypical lot* shall mean a lot within a subdivision where, as a result of subdivision design, the lot abuts a street at one end and any of the following at the opposite end: a waterway or body of water, either of which is 100 feet or more in width; a golf course fairway or green; or an open space which by itself, or when combined with other open space areas within the same subdivision, comprises at least 15 percent of the total land area in the subdivision, and in which an undivided interest is conveyed with each lot.

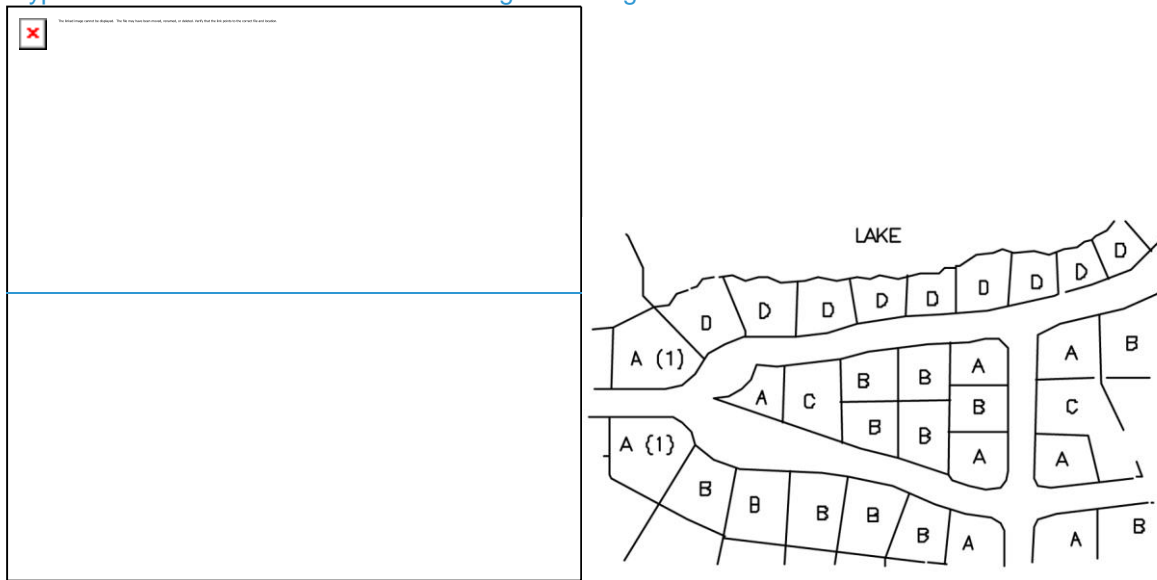
(2) (2)—*Corner lot* shall mean a lot located at the intersection of two ~~streets and abutting such streets on two adjacent sides.~~ Corner lots are defined as lots located at the intersection of two or more streets. A lot abutting on a, or curved street or streets shall be considered a corner lot if straight lines drawn from the frontmost points of the side lot lines to the frontmost point of the lot meet, at an interior angle of less than 135 degrees.

(3) (3)—*Flag lot* shall mean a lot that has access to the road provided along a long narrow strip of land which resembles a flag on a pole and does not meet the minimum lot width along a right-of-way.

(4) *Interior lot* shall mean a lot bounded on at least two sides by other lots and which is not a corner lot. Interior lots are defined as lots with only one frontage on a street.

(5) (4)—*Through lot* or *double frontage lot* shall mean an interior lot which has lot lines along two substantially parallel streets. Through lots are defined as lots other than corner lots with frontage on more than one street. Through lots abutting two streets may also be referred to as double-frontage lots.

~~Lot classifications shall mean lots shall be classified as corner lots, interior lots, through lots and atypical lots. The following diagram illustrates these lot types:~~



~~In the diagram, "A" designates corner lots, "B" designates interior lots, "C" designates through lots, and "D" designates atypical lots. Please see Appendix C for illustrations.~~

~~Lot coverage shall mean the percentage of the lot that area of a lot from the ground up which is occupied may be covered by principal and accessory buildings, roofed/canopied structures and is calculated by dividing the total of building footprint area by the total lot area. Does not include parking or other paved surfaces.~~

~~Lot depth shall mean the average horizontal distance between for the midpoint of the front and lot line to the midpoint of the rear lot lines, lot line, or to the rear most point of the lot where there is no rear lot line.~~

~~Lot line, front, shall mean the property line abutting any street right-of-way, or for streets with less than 50 feet of dedicated right-of-way, an imaginary line located 15 feet from and parallel to the edge of the traveled way.~~

~~Lot line, rear, shall mean the property line most distant from and most nearly parallel to the front lot line, with the exception that, on corner lots, the property line most distant from and parallel to the front lot lines shall be considered side lot lines.~~

~~Lot line, side, shall mean any property line that is not a front or rear property line.~~

~~Lot lines shall mean the perimeter property lines around the lot or the space line of a rental space.~~

~~Lot, substandard, shall mean any lot with less than 5,000 square feet of area, or less than 50 feet of width at the front building line; provided, however, that approved cluster subdivision lots shall not be considered substandard.~~

~~Lot width shall mean the horizontal distance between the side lot lines measured along the front building setback line.~~

~~Lowest adjacent grade shall mean the lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.~~

~~Lowest floor, as defined by the Florida Building Code, shall mean the lowest floor of the lowest enclosed area (, including basement). An, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking of vehicles, building access or limited storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of section 60.3, Code of Federal Regulations. Section 1612 of the Florida Building Code.~~

Luminaire shall mean a complete unit that artificially produces and distributes light. An artificial light source, including fixture, ballast, mounting, and lamp.

~~*Mangrove stand* shall mean an assemblage of mangrove trees, which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contains one or more of the following species: black mangrove (*Avicennia nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Laguncularia racemosa*); and buttonwood (*Conocarpus erecta*).~~

Manufactured home, as defined by F.S. 679.1021, shall mean a structure, transportable in one or more sections, which is in the traveling mode, is eight (8) body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of F.S. 679.1021(1)(aaa) except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code. "Manufactured home" does not include a "recreational vehicle" or "park trailer."

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufacturing shall mean the mechanical, physical, or chemical transformation of materials, substances, or ~~chemicals~~ components into new products, as defined in the North American Industry Classification System (NAICS).

~~*Marina* shall mean a boat dock or basin with facilities for berthing, securing, fueling and servicing various types of recreational watercraft. It may include the provision of supplies and storage. It does not include boat docks that are accessory to residential uses.~~ licensed commercial facility that provides secured public moorings or dry storage for vessels on a leased basis, as defined by F.S. 327.02. A commercial establishment authorized by a licensed vessel manufacturer as a dealership is considered a marina for nonjudicial purposes.

Market value shall mean the building value, price at which is the ~~property value~~ between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As The term refers to the market value of buildings and structures, excluding the land value and that of the detached accessory structures and and other improvements on site (as agreed to between a willing buyer and seller) as established by what the local real estate market will bear the parcel. Market value can be established by an a qualified independent-certified appraisal (other than a limited or curbside appraisal, or one based on income approach), actual cash value (replacement cost depreciated for age and quality of construction of building), or adjusted tax-assessed values., or tax assessment value adjusted to approximate market value by a factor provided by the Volusia County Property Appraiser.

Marquee shall mean a canopy or covered structure projecting from and supported by a building, when such canopy or covered structure extends beyond the building.

~~*Marquee sign* shall mean any sign attached to the side or front or hung under a marquee, which sign shall not extend above the top of a marquee or shall not be mounted upon the top of the marquee.~~

Mean high water shall mean the average height of the high waters over a 19-year period. For shorter periods of observation, "mean high water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value, as defined by F.S. 177.27.

~~*Mean high water line* shall mean the intersection of the tidal plane of mean high water with the shore.~~

~~*Mean sea level* shall mean the average height of the sea for all stages of the tide. It is used as a reference for establishing various tidal datum constituting the arithmetic mean of the hourly water elevations within the floodplain. For purposes of this Code, the term is synonymous with observed over a 19-year~~

~~cycle (the National Geodetic Vertical/Tidal Datum (NGVD) of 1929, or North American Vertical Datum (NAVD) of 1988-Epoch), as defined by F.A.C. 18-20.003.~~

Medical office shall mean outpatient premises where patients, ~~who are not lodged overnight~~, are admitted for examination and treatment by one or more persons practicing any form of the human healing arts, whether they are medical doctors, dentists, chiropractors, osteopaths, chiropractists, optometrists, or any similar professional licensed by the state. Does not include pain management clinics as defined herein.

~~*Message center sign* shall mean any sign that can electronically display words, numerals, and/or characters in a programmed manner.~~

Mezzanine shall mean a floor that is built between two main floors, but covering a specific area rather than extending over the entire floor space.

Micro-irrigation systems shall mean irrigation systems that efficiently irrigate plant materials with maximum distribution of water to the plant root zone at a rate consistent with the water requirements of the plants being irrigated and with minimal loss of water by evaporation by using specialized underground emitters or pipes and low trajectory spray heads.

~~*Miniwarehouse*~~ *Micro wireless facility*. A small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

Minor site improvement shall mean an ~~enclosed storage area containing individually rented~~ improvement to an existing developed site that:

- (1) Increases the existing FAR by no more than 10% or owned compartments 1,000 square feet, whichever is greater;
- (2) Increases the existing ISR by no more 10% or stalls for storage only 1,000 square feet, whichever is greater;
- (3) Does not increase the height of the existing structure(s);
- (4) May replace, add, or remove landscaping;
- (5) May replace, add, or remove signage;
- (6) May replace, add, or remove fencing; or
- (7) May modify up to 10% of the building façade.

Mitigation (wetlands) shall mean actions including, but not limited to, restoration, enhancement, or creation of wetlands, required to ~~be taken by a person to~~ offset environmental impacts of permitted activities.

Mitigation (traffic) shall mean special actions, programs and procedures intended to reduce, redistribute, or modify the traffic impact on the arterial street system and/or increase capacity to the arterial street system by using professionally accepted standards and methods.

~~*Mobile home*~~ *Mixed-use building*. Multiple functions within the same building through superimposition or adjacency, or in multiple buildings within the same area by adjacency. This may include, but is not limited to, a combination of residential, commercial, light manufacturing, office, and/or civic land uses.

Mixed-use residential. As used in F.S. 166.04151(7)(a) and (f), shall mean a building residential use combined with a permitted B-2 or B-4 use as set forth in this Code with no more than 65% of the total square footage of the structure for residential purposes. A mixed use residential building located within the B-2 zoning classification shall only permit B-2 uses, as set forth in Chapter 4, to be located on the ground floor of each building. A mixed-use residential building located within the B-4, B-5, B-6, B-7, or I-1 zoning classifications shall only permit B-4 commercial retail uses as set forth in Sec. 4.7, excluding drive-through uses or facilities to be located on ground floor.

Mobile food dispensing vehicle means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities.

including, but not limited to, gas, water, electricity, or liquid waste disposal, or as such vehicle may be from time to time defined in F.S. 509.102.

Mobile home dwelling shall mean a residential structure, transportable in one or more sections, which is 8 body feet or more in width, over 35 body feet in length with the hitch, built on a permanent integral chassis and, designed to be used with or without a permanent foundation as a dwelling when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property, and not originally sold as a recreational vehicle, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

Mobile home park shall mean an area of land under one ownership where designated spaces for mobile home dwellings are rented. The overall operation is managed on a full- or part-time basis and provides various services and facilities for common use. a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.

Mobile home space or lot shall mean an improved area within an approved mobile home lot described by a park, designated owner pursuant to the requirements of s. 723.012, or in a disclosure statement pursuant to F.S. 723.013, as a lot intended for the placement of only one mobile home dwelling.

Mobile home subdivision shall mean an approved subdivision with lots for sale as residential sites for mobile home dwellings of mobile homes where individual lots are owned by owners and where a portion of the subdivision or the amenities exclusively serving the subdivision are retained by the subdivision developer.

Mobile recreational shelters and vehicles shall mean portable shelters and vehicles, designed for travel or recreational purposes, which are not more than 8½ feet wide. The term includes the following:

- (1) (1)—*Tent, tent camper or camping trailer* shall mean a portable shelter usually fabricated of canvas or other water-repellant and fire-resistant material. The shelter may be designed to collapse for independent storage or may be designed to fold out from a special trailer body towed behind a motor vehicle.
- (2) (2)—*Truck camper* shall mean a portable unit designed to be loaded onto, or affixed to, the bed or chassis of the truck and constructed to provide temporary living quarters for recreational, camping, or travel use.
- (3) (3)—*Travel trailer* shall mean a vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use. It has a body width of no more than 8½ feet and an overall body length of no more than 40 feet when factory-equipped for the road.
- (4) (4)—*Motor home* shall mean a vehicular unit which does not exceed 40 feet in length and the height and the width limitations provided in F.S. §316.515, is a self-propelled motor vehicle and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.
- (5) (5)—*Pickup cover* shall mean a portable enclosure placed on the bed of a pickup truck, usually lacking any self-containment features, and primarily providing simple sleeping arrangements.
- (6) (6)—*Private motor coach* shall mean a vehicular unit which does not exceed the length, width, and height limitations provided in F.S. §316.515(9), is built on a self-propelled bus type chassis having no fewer than three load-bearing axles, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.
- (7) (7)—*Fifth-wheel trailer* shall mean a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed 400 square feet in

the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

~~(8) (8)~~—*Recreational vehicle* shall mean a vehicle which is:

- ~~a. a.~~—Built on a single chassis;
- ~~b. b.~~—Four hundred square feet or less when measured at the largest horizontal projection;
- ~~c. e.~~—Designated to be self-propelled or permanently towable by a light-duty truck; and
- ~~d. d.~~—Designated primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

~~*Monument sign* shall mean a ground sign with an enclosed base equal to at least two-thirds of the horizontal width of the sign surface and not exceeding eight feet in overall height. The base of the sign must come in complete contact with the ground and there shall be no gaps between the base and the ground cover or soil.~~

Mowing shall mean to cut grass, ~~brushweeds~~, and other nonprotected vegetation which falls below a two-inch caliper with a machine designed to remove such material without disturbing the soil and plant roots.

~~*Multifamily parcel* shall mean a residential parcel of land which is not classified as a single-family or duplex parcel as defined in this section.~~

~~*Multiple-sided sign* shall mean a sign with more than one face.~~

National Geodetic Vertical Datum (NGVD) shall mean as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

~~*Natural flow pattern* shall mean the rate, volume and direction of the surface water or groundwater flow occurring under natural conditions for any given portion of the City.~~

NAVD88 shall mean North American Vertical Datum of 1988.

New construction shall mean, for floodplain management purposes, any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management code, ordinance, or standard, based upon specific technical base flood elevation data that establishes the area of special flood hazard, December 31, 1974, per FEMA. The term also includes any subsequent improvements to such structures. For flood insurance rates, the term "new construction" shall mean structures for which the start of construction commenced on or after December 31, 1974 or after November 23, 1973, and includes any subsequent improvements to such structures ~~-, per FEMA.~~

New manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management code, ordinance or standard ~~– (on or after November 23, 1973.)~~.

~~*NGVD29* shall mean National Geodetic Vertical Datum of 1929.~~

Nightclubs. See "Club, night."

~~*Nuisance tree*~~*Nonconforming Building or Structure* shall mean any ~~of structure lawfully established prior to and existing on~~ the following tree species:

Common Name	Botanical Name
Australian Pine	Casuarina litorea

Australian Pine	Casuarina glauca
Brazilian Pepper	Schinus terebinthefolius
Camphor Tree	Cinnamonum camphora
Chinaberry	Melia azedarach
Citrus	Citrus species
Ear Pod Tree	Enterolobium cyclocarpa
Eucalyptus	Eucalyptus species
Punk Tree or Cajeput	Melaleuca quinquenervia
Silk Oak	Grevillea robusta
Woman's Tongue	Albizia lebbek
Chinese Tallow Tree	Sapium Sebiferum

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~~–effective date of this Code, or any amendment hereto, which does not conform to the requirements of this Code for the zoning district in which it is located, including any applicable overlay districts.~~

~~Nonconforming lots shall mean an area of land which abuts a street and which either complied with or was exempt from the City subdivision regulations on the effective date of the ordinance from which this Code is derived, but which does not meet the minimum area, depth and/or width requirements of its zoning classifications.~~

~~Nonconforming sign Use shall mean any sign which does not comply with use lawfully existing at the regulation time of adoption of this Code, or subsequent amendments.~~

~~Nonresidential activity shall mean any activity occurring on any described parcel of land, whether or not within any subsequent amendment thereto, which does not conform to one or more provisions of this Code, including an existing use permissible as a structure, with the special exception of residential activity use but which has not been so specifically authorized.~~

~~Nursing home facility shall mean, as defined by F.S. 400.021, any facility which provides nursing services as defined in this section.~~

~~Nonresidential parcel shall mean a parcel Part I of land other than a residential parcel, as defined in this section.~~

~~Nonvehicular ingress and egress easement shall mean an easement entitling the holder Chapter 464 of the easement to control access across the easement by motor vehicles.~~

~~North American Vertical Datum of 1988 (NAVD) shall mean a vertical control used as a reference for establishing varying elevations within the floodplain.~~

~~Nursing home shall mean premises where meals, lodging, nursing care and related medical services are furnished for compensation Florida Statutes and which is licensed according to six or more persons unrelated by marriage, birth or legal adoption. It does not include hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment Part II of Chapter 400 of the sick or injured. same.~~

~~Official zoning map shall mean a graphic illustration of zoning boundaries and classifications drawn and approved as part of the records of the City.~~

~~Off-premises directory sign shall mean a sign located on property other than the property which is referenced by the directory information displayed on the sign.~~

~~Off-premises sign shall mean a third-party sign. It is a sign that advertises goods, products, services or facilities or directs persons to a different location from where the sign is installed.~~

~~Off-street loading area or space shall mean an off-street loading area provided off the public right-of-way for the temporary parking of trucks being loaded or unloaded.~~

~~Off-street loading space shall mean a permanently located off-street space for the temporary parking of vehicles which pick up, deliver, load or unload goods, supplies and merchandise.~~

~~Off-street parking area or space shall mean a permanently located off-street space for the temporary parking of vehicles.~~

~~On-premises sign shall mean a sign erected by the owner or lessee of a premises that is incidental, subordinate and accessory to the permitted principal use or structure and located on the same premises of such principal use or structure. It is a sign identifying a business, person, activity, goods or services located on the premises where the sign is installed and maintained.~~

~~100-year flood elevation means the flood elevation that has a one percent chance of being equaled or exceeded each year. On-site internet or computer access. Establishments offering on-site internet or computer access, or phone card sales, the primary activity or business of which is the sale of internet, computer or phone access or time for compensation or value whether for profit or not.~~

~~Opaque wall. A wall that is not see-through, non-transparent.~~

~~Open space shall mean that portion of a project not used for buildings, street rights-of-way or off-street parking and loading areas or other impervious surfaces (not including recreational facilities). Open space is intended to perform one or all of the following purposes:~~

- ~~(1) (1) Protection of natural resources (uplands, wildlife habitats and groundwater recharge areas) and areas unsuitable for development due to natural conditions (wetlands, floodplain and poor soils);~~
- ~~(2) (2) Recreation areas; and~~
- ~~(3) (3) Enhancement of the urban environment (buffer areas, landscaped areas, plazas and courtyards).~~

~~Outdoor display of retail merchandise shall mean the display of merchandise or goods available for purchase consisting of a small sample of merchandise or decorative items placed outdoors adjacent to the responsible business. The outdoor display is intended to allow retailers to attract the public by offering a sample of the products available inside.~~

~~Outdoor entertainment and recreational uses and structures shall mean privately owned and operated facilities providing outdoor recreation, entertainment or amusement activities to the general public usually for an admission fee. Examples of such facilities include: miniature golf courses, amusement parks, water slide and sport facilities, golf driving ranges, and go-cart tracks. Speedways, racetracks, motorized vehicle or motocross courses, agricultural centers and associated fairgrounds, outdoor musical events, and circus headquarters are not included in this definition.~~

~~Outdoor sales shall mean retail sales from other than an approved store, shop, or similar building. The term "outdoor sales" shall not include garage sales, as defined in this section.~~

Outdoor storage shall mean the ~~keeping use of any lot for the outdoor storage of vehicles, goods, inventory, goods, material including raw, semi-finished, commodities or equipment. This term shall not include salvage or junk yards and finished materials incidental to an allowed use located on the same premises outside for any period of time.~~ does not include “Outdoor display.”

Outside TOD Core. Properties between approximately one-fourth mile and one-half mile of the DeBary Commuter Rail Station.

Out-parcel shall mean a parcel of land or lot separated or separable from a development.

Outstanding Florida Waters (OFW) shall mean waters ~~and associated wetlands identified~~ designated by the Environmental Regulation Commission as worthy of special protection because of their natural attributes as defined in F.A.C. 1762-302.700200.

Overlay District shall mean an area where certain additional requirements are superimposed upon a base zoning district or underlying district and where the requirements of the base or underlying district may or may not be altered.

Owner shall mean any person, group of persons, firm or firms, joint venture, corporation or corporations, or any other legal entity having legal title to the land sought to be developed under this Code. It also refers to an owner or group of owners of fee simple title to a particular lot, tract, or parcel of real property.

Owner occupied shall mean a dwelling occupied by the owner of record, holding a valid certificate of occupancy.

~~*Owner's* *Owner's* authorized agent~~ shall mean and refer to an agent of the owner duly authorized to submit and process an application. If the applicant is not the property owner, a written authorization must accompany the application. ~~Such authorization shall be evidenced by a power of attorney signed by the owner in connection with the application as to the owner's real property, which is the subject of the application. The authorization shall include an agreement of the owner to be bound by the actions of the owner's authorized agent and the provisions of this Code.~~

Package treatment plant shall mean small wastewater treatment systems which have a collection network, treatment plant, and disposal system. Package treatment plants are generally used to serve isolated development and are partially or completely preassembled by the manufacturer prior to shipment to the site of use.

Pain management clinic shall mean, as defined by F.S. 458.3265, any publicly or privately owned ~~clinic, facility or office, which that~~ advertises in any medium for any type of pain ~~management service, services;~~ or where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain and is required to register with the Florida Department of Health.

Parapet shall mean that portion of the facade which extends above the roofline.

Parcel of land shall mean any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as a unit or which has been used or developed as a unit.

~~*Parcel of record* shall mean a contiguous piece of land in possession of, owned by, or recorded as property of the same person in the public records of the county.~~

Park trailer shall mean, as defined by F.S. 320.01, a transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface ~~to~~ of the exterior stud walls at the level of maximum dimensions, not including any bay window, does not exceed 400 square feet when constructed to ANSI A-119.5 standards, and 500 square feet when constructed to United States Department of Housing and Urban Development Standards. The length of a park trailer means the distance from the exterior ~~to~~ of the front of the body (nearest to the drawbar and coupling mechanism) to the exterior of the rear of the body ~~, (at the opposite end of the body),~~ including any protrusions.

Parking drive aisle shall mean the area immediately adjacent to the car parking stalls which permits maneuvering of the cars entering and leaving a parking stall, and which connects the parking stalls to the driveway.

Parking stall shall mean the space that is necessary to park a [car/vehicle](#), excluding aisles and driveways.

Partial circulation parking lot shall mean a parking lot design which permits a [car/vehicle](#) entering a parking lot to circulate in front of all parking stalls without using the public right-of-way.

[Pedestrian-oriented business or use. A business or use which is commonly accessed by pedestrians from the street sidewalk and has a high customer use rate.](#)

Penthouse shall mean an enclosed, [unoccupied rooftop structure](#) ~~or structures above the roof of a building occupying not more than an aggregate area of one-third of the area of the supporting roof. Penthouses shall not be used for purposes other than the shelter of sheltering~~ mechanical [and electrical equipment or shelter of, tanks, elevators, and related machinery, and](#) vertical shaft openings ~~in the roof,~~ [as defined by the Florida Building Code.](#)

Person shall mean any individual, group of persons, firm, corporation, association, or entity.

Person, aggrieved, shall mean one whose legal right is invaded by a decision complained of, or whose pecuniary interest is directly affected by a decision. The person's interest must be specific and personal, not common to all members of the community. When the decision affects any public recreation area, however, the phrase shall include any user of that area.

~~*Person, interested*, shall mean any person who presents evidence, testimony or argument at any public hearings, whether oral or written, in person or by representative and who provides his name and address to the hearing body.~~

Pervious area shall mean an area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water into the ground.

Pet, shall mean an animal that is kept by humans for companionship and enjoyment such as dogs, cats, fish, hamsters and birds but does not include horses, ponies, chickens, roosters, pigs or other livestock and farm animals.

Planned unit development (PUD) shall mean a [special zoning district for a specific](#) tract of land under unified ownership, to be planned and developed according to the [development agreement and/or](#) master development plan specified in this Code.

~~*Plant height shall mean, as agreed upon between* the [height of a plant measured vertically from City and the natural soil line to the uppermost point of the plant](#) [property owner](#).~~

Plant list shall mean the City's list of trees and vegetation identifying species and specifications approved for planting to comply with the City landscape requirements

Plat shall mean a map or delineated representation of the subdivision of lands in accordance with the requirements of F.S. ~~ch.~~[Chapter](#) 177.

Platted land shall mean any land which can be referenced to a plat.

~~*Pole lighting shall mean a light fixture set on a base or pole which raises the source of the light higher than 48 inches off the ground.*~~

~~*Political sign shall mean any sign urging the election or defeat of any candidate seeking any political office, or urging the passage or defeat of any ballot measure, but does not include any billboard owned or maintained by a commercial firm or advertising company.*~~

Portable shelter shall mean a [temporary](#) movable device, consisting of a rigid plastic, fiberglass or metal frame supporting an attached tarpaulin weather barrier, which is capable of being easily assembled from a commercially available kit or bundle of prefabricated parts ~~and is intended to be utilized outdoors for the sole purpose of sheltering mechanical equipment, vehicles or other personal property.~~

Potable water or *potable water facilities* shall mean water that is satisfactory for ~~drinking human consumption, dermal contact,~~ culinary ~~and domestic purposes, meeting current state and federal drinking water standards purposes,~~ or dishwashing as approved by the Department of Health, including the County health department, as defined by F.S. 381.0062. The water meets the criteria of F.A.C. 17-3.074 ~~and/or F.A.C. 17-3.404, and/or F.A.C. ch. 17-22-62-550.~~

Potable water supply well shall mean a ~~potable water well to supply water which has been permitted for consumptive use by the St. Johns River Water Management District and the casing diameter is six inches or greater.~~

~~*Preliminary development order* shall mean a rezoning, special exception, Planned Unit Development, subdivision sketch plan or overall development plan, conceptual or preliminary site plan, or any other development order other than a final development order, except a variance authorized under this Code, well used as a source of water for drinking, culinary, or domestic purposes, as defined by F.A.C. 62-610.200.~~

Premises shall mean a distinct unit or parcel of land and all buildings, structures, or other appurtenances thereof including the appurtenances thereon.

Primary containment shall mean the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous substance being contained.

Primary well field protection zone shall mean the land area immediately surrounding any potable water supply well and extending a radial distance of 200 feet.

~~*Principal building/structure* shall mean any structure occupied by. A building in which~~ the principal use of the lot is conducted.

~~*Principal entrance.* The place of ingress and egress facing the principal street.~~

~~*Principal street.* In this document, the principal street of a lot or site is the street with the highest priority/level of transit service that is adjacent to the lot or site.~~

Principal use shall mean the primary purpose or function served or provided.

Product-tight shall mean impervious to the hazardous substance which is or could be contained so as to prevent the seepage of the hazardous substance from the containment system. To be product-tight, the containment system shall be made of a material that is not subject to physical or chemical deterioration by the hazardous substance being contained.

~~*Profession* shall mean a calling requiring specialized knowledge, often long and intensive academic preparation, and involving mental rather than manual labor.~~

~~*Professional office* shall mean an office for the use of an architect, engineer, attorney, accountant and the like. Such use is characterized principally by offering consultant where professional services.~~

~~*Program deficiency* shall mean a deficiency in the community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards required by the National Flood Insurance Program are provided, excluding medical offices.~~

Project shall mean the particular structures and improvements proposed by the applicant on a particular land area which are part of a common plan of development and may include the subdivision of land. Any area of land that is planned, designed and developed in an integral and unified arrangement. It includes all structures, improvements and equipment of every kind, nature or description incident to the development.

~~*Property perimeter* shall mean the area of a development site beginning on the property boundary line and projecting at a right angle toward the interior of the site. A property perimeter is bounded on the outside by the property line and on the inside by a building or structure, vehicular use area, or open space.~~

Protective barrier shall mean conspicuously colored fences or like structures, constructed of sturdy materials that are at least four feet in height, which prevent or obstruct passage.

Prune shall mean to cut away, remove, cut off or cut back parts of a tree or plant for the purpose of promoting healthy growth and shape without damaging the plant.

Public improvements shall mean any sanitary sewer, storm sewer, drainage ditch, water main, roadway, parkway, bridge, sidewalk, pedestrian way, planting strip, or other facility for which the City or other governmental agency may ultimately assume the responsibility for maintenance and operation.

Public property shall mean all real and personal property, including leasehold rights owned by the federal, state or local governments, including all political subdivisions, authorities, or other entities to which the rights, powers and privileges of the federal, state and local government have been delegated.

Public safety and nuisance shall mean anything which is injurious to safety or health of the entire community or a neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Public schools Interlocal agreement shall mean and refer to an agreement entered into by the school board and the City that recognizes the school board's process for determining the availability of school capacity and the roles and responsibilities of the respective parties in determining and resolving school capacity issues and the process for creating capacity enhancement agreements, pursuant to F.S. 163.31777.

Public space. The area between the curb of the vehicular lanes and the front lot line. Elements of the public frontage include the type of curb, walk, planter, street tree and streetlight

Public use shall mean a use of any premises by a public body, board, council or authority, such as a municipal, county, state or federal government, or any agency or department thereof for a governmental or proprietary purpose.

~~*Public utility* shall mean an enterprise providing an essential service authorized and regulated by state or federal public utility commissions. Included are facilities necessary to provide the service such as water towers, well houses, utility poles, transmission towers, substations, sewerage, communication equipment, street lighting and other similar equipment.~~

Public utility shall mean, as defined by F.S. 366.02, every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state; but the term "public utility" does not include either a cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state; a municipality or any agency thereof; any dependent or independent special natural gas district; any natural gas transmission pipeline company making only sales or transportation delivery of natural gas at wholesale and to direct industrial consumers; any entity selling or arranging for sales of natural gas which neither owns nor operates natural gas transmission or distribution facilities within the state; or a person supplying liquefied petroleum gas, in either liquid or gaseous form, irrespective of the method of distribution or delivery, or owning or operating facilities beyond the outlet of a meter through which natural gas is supplied for compression and delivery into motor vehicle fuel tanks or other transportation containers, unless such person also supplies electricity or manufactured or natural gas.

Public utility uses and structures shall mean publicly owned or regulated electric power plants, substations, water tanks, gas transfer stations, water and sewage treatment plants and other buildings and uses not defined as "essential utility services."

Publicly owned parks and recreational facilities shall mean an area of land, often in a largely natural state, having facilities for rest, recreation or sports activities owned or managed by a municipal, county, state or federal government or any agency or department thereof for the benefit or enjoyment of the general public.

Quasi-judicial action shall mean a public hearing by the City Council, in accordance with City Resolution # 2015-21 where due public notice of the hearing has been performed and an opportunity to be heard and to present evidence is afforded to affected parties, and the decision of the City Council is based on competent substantial evidence present in the record.

~~*Real estate sign* shall mean any sign, installed on a temporary basis, by the owner of real property or his agent, advertising the real property upon which the sign is located for rent, sale, or lease, but shall not include roominghouse signs.~~

Rebuttable presumption shall mean a presumption which may be rebutted by evidence.

~~*Recharge* shall mean the inflow of a process, natural or artificial, by which water into a project, site is added to the saturated zone of an aquifer, drainage basin or facility, as defined by C.F.R. Title 40, Sec. 149.2.~~

~~*Recovered wastewater (reclaimed water)* shall mean effluent treated to advanced levels meeting the state department of environmental protection criteria and disposed of through irrigation or other approved methods water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility, as defined by F.S. 373.019.~~

~~*Recreation, active/outdoor* shall include private recreation areas designed for vigorous activities conducted outdoors such as, but not limited to, amusement parks, sports and athletic facilities (e.g. tennis, basketball, racquetball, driving ranges), miniature golf, go-cart tracks, water slides, and similar activities. The term shall not include golf courses or outdoor shooting ranges.~~

~~*Recreation facilities, indoor* shall include enclosed public or private facilities containing amusement, entertainment, and/or recreational activities, such as theaters, bowling alleys, coin operated amusement, pool halls, dance halls, exercise studios, physical fitness studios (gym), health spa, martial arts schools, and indoor sports facilities, such as tennis courts, handball courts, and swimming pools. The term shall not include indoor shooting ranges.~~

~~*Recreation, passive* A public or private recreation area designed for and suitable for light activity and relaxation, including, but not limited to, sitting areas, walking trails, picnic pavilions, bicycle trails, playgrounds, botanical gardens, bird sanctuaries, nature trails and similar activities.~~

~~*Recreational areas/facilities, private* shall mean privately owned and operated facilities providing recreation and sport uses such as golf courses, country clubs, swim clubs, tennis clubs, and the like. Private recreational facilities are generally sustained through the sales of memberships, but may be open to the general public for a fee.~~

~~*Recreational facilities, public* shall mean these publicly owned improvements or artificially installed accessories which facilitate the use of an area or a resource for outdoor recreation. Facilities are divided into two categories:~~

- ~~(1) (1) — *Primary facilities* are those that are essential or extremely desirable for conducting a particular outdoor recreational activity, such as launching ramps for boating, trails for cycling, roads for access to areas, etc.;~~
- ~~(2) (2) — *Secondary facilities* are those that are desirable as a further enhancement of the recreational experience but are still dispensable, such as outdoor grills for picnicking and camping, docks for boating, etc.~~

~~*Redevelopment* shall mean substantial alterations or additions to an existing structure effecting or otherwise developed property affecting 50 percent or more of the market value.~~

~~*Regulatory floodway* shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order area regulated by federal, state or local requirements to provide for the discharge of the base flood without cumulatively increasing so the cumulative increase in water surface elevation is no more than a designated height amount (not to exceed 1 foot as set by the National Flood Insurance Program), as defined by C.F.R. Title 44, Sec. 9.4.~~

~~*Remedy a deficiency or violation* shall mean to bring the regulation, procedure, structure or other development into compliance with state, Federal or local floodplain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement~~

provisions of this ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

~~Removal (tree) shall mean to cut down, dig up, destroy, effectively destroy, or the unlicensed relocation of any tree.~~

~~Replacement stock (tree) shall mean any immature tree having an overall height of at least six feet but does not include any nuisance tree. In addition replacement stock shall have a minimum caliper of two inches.~~

~~Rent shall mean the periodic payments due the landlord from the tenant for occupancy under a rental agreement and any other payments due the landlord from the tenant as may be designated as rent in a written rental agreement, as defined by F.S. 83.43~~

~~Reservoir area shall mean an area not on the public right-of-way which is provided for the temporary use of vehicles waiting to enter or leave a vehicle-oriented service, or an off-street parking facility.~~

~~Residential activity shall mean any building or structure or portion thereof that is designed for or used for residential purposes as a permanent place of residence and any activity involving the use or occupancy of a lot for residential purposes. Residential activity shall include those customary and accessory residential activities associated with the principal permitted use of a lot for residential purposes as set out in the zoning regulations or other appropriate code of the City.~~

~~Residential construction shall mean construction of a single-family or two-family housing unit on an individual lot within an existing approved subdivision where property is classified (zoned) pursuant to chapter 3, article III, division 3 Chapter 4 of the City Land Development Code as amended, for single-family, two-family, or mobile home use excluding mobile home parks three-family, or is located in a residential use area in a community development plan or said use is in a residential Planned Unit Development. more.~~

~~Residential parcel shall mean a parcel of land on which a residential structure may be built without violating the Comprehensive Plan, or any applicable law or ordinance.~~

~~Restaurant shall mean premises where meals, including beverages or confections, are served to customers. Restaurants are classified as:~~

~~(1) (1) Type A shall mean buildings where the customers normally order from individual menus while seated at a table. The order is then normally served by a restaurant employee to the same table and there consumed by the customer. This group also includes cafeterias.~~

~~(2) (2) Type A with outside service of alcoholic beverages are restaurants that shall operate under a 4COPSRX license or shall meet similar limitations. Outside service and consumption of alcohol shall be limited to the same hours of operation as interior service and consumption. The establishment's license from Division of Alcoholic Beverages and Tobacco and Bureau of Licensing must include the outside area as part of the licensed premises.~~

~~(3) Type B shall mean any building containing a restaurant other than Type A, including but not limited to fast food, drive-in, and drive-through restaurants.~~

~~Retail sales and services shall mean the duly licensed selling of general or specialized merchandise directly to the consumer from a store, shop or similar building. The repair, installation, servicing and making of only that merchandise being sold from the store, shop or similar building, is allowed as an accessory use to the permitted sales.~~

~~Revetment shall mean a sloped facing structure of an armoring material such as, but not limited to, quarry stone, concrete, or geotextile fabrics, built to protect a scarp, embankment, or shore structure against erosion by wave action or currents. A form of rigid armoring.~~

~~Review deposit fee shall mean and refer to the application review deposit fee, as established by this Code and as established from time to time by resolution of the City Council, to be paid by an applicant at the time of the filing of an application in those circumstances where review costs are paid by the applicant under the provision of this Code.~~

~~Revolving sign. See "Animated sign."~~

Riding stables. Commercial and private equine boarding stables with riding arenas and equestrian facilities.

Right-of-way shall mean land ~~for in~~ which the ~~state, county, or State, the Florida Department of Transportation, County,~~ City owns the fee or has an easement devoted to or required for use as a transportation facility, as defined by F.S. 334.03, or is specifically dedicated to the public or street/private entity use.

Right-of-way line shall mean the line which bounds the right-of-way set aside for use as a street.

Riverine shall mean relating to, formed by, or resembling a river (including tributaries), stream, brook, etc., as defined by C.F.R. Title 44, Sec. 59.1.

~~Roof sign shall mean any outdoor advertising display sign, installed, constructed or maintained above the roofline of any building.~~

Roofline shall mean the intersecting lines of a roof, formed at the junction of the roof with the walls of a building.

~~Roominghouse. See "Boardinghouse."~~

~~Rotating sign. See "Animated sign."~~

~~Sandwich sign. See "A-frame sign."~~

~~Satellite building or satellite use shall mean a detached building and any accessory structure sharing common ingress, egress, or parking facilities with a shopping center and containing a single tenant; the use occupying a satellite building.~~ *Boarding House* shall mean a building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit, as defined by the Florida Building Code

School board shall mean and refer to the School Board of Volusia County, Florida, the governing body of county public schools.

Seasonal high ground water table (SHGWT) shall mean the zone of water saturated soil at the highest average depth during the wettest season of the year.

Seasonal high water level (SHWL) shall mean the elevation to which ground or surface water can be expected to rise during a normal wet season.

Seawall shall mean a ~~structure separating land~~ manmade wall or encroachment, except, riprap, which is made to break the force of waves and to protect the shore from water areas, primarily designed to prevent upland erosion and other damage, as a result of wave action. A form of rigid armoring defined by F.S. 373.403.

Secondary containment shall mean the level of product-tight containment external to and separate from the primary containment.

Secondary well field protection zone shall mean the land area surrounding the primary well field protection zone, and extending a radial distance of 800 feet from said primary well field protection zone.

Sediment shall mean solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water or gravity as a product of erosion.

Sediment basin shall mean a depression formed by the construction of a barrier or dam built at a suitable location to retain sediment and debris.

~~Self-service laundry shall mean premises where equipment for washing and drying laundry is made available to retail customers for a charge. It is synonymous with "laundromat."~~

Self-storage facility shall mean an enclosed storage area containing individually rented or owned compartments or stalls for storage only.

Service, Personal shall mean uses such as barbershops, beauty shops, travel agencies, shoe repair shops, tailor shops, photographic studios, laundry and dry-cleaning establishments where non-flammable solvents are or can be used, locksmiths, and employment agencies.

Setback shall mean the minimum distance which must be maintained around the perimeter/boundary of a lot and any structures; required yard area between the lot and the building line.

Shade tree shall mean tree species that customarily grow over 30 feet in height and have a minimum crown spread of 35 feet.

Shallow flooding shall mean the same as "area of shallow flooding."

Shopping center shall mean premises containing a group of commercial establishments planned, developed and organized as a unit.

Shoulder shall mean the portion of a roadway contiguous with the traveled way for accommodation of stopped vehicles, emergency use, and lateral support of base and surface courses.

Sidewalk shall mean the improved portion of a right-of-way intended for pedestrian use.

Sidewalk sign. See "A-frame sign."

Sidewalk clear zone. That portion of the sidewalk that is maintained free of any obstructions to allow for the passage of pedestrians

Sign shall mean any device or display consisting of lights, letters, numbers, symbols, pictures, illustrations, announcements, cut-outs, insignia, trade marks, or demonstrations, including all trim and borders, which is designed to advertise, inform, identify, or attract the attention of persons not on the premises on which the device or display is located, and which is visible from a public street.

(1) (4) —Any person or animal stationed at or close to a business site for the purpose of attracting attention to the business by actions or attire is a sign.

(2) (2) —Sign structure is that material which supports or is capable of supporting a sign, including decorative cover.

(3) (3) —Advertising message is any copy, logos, or graphic elements of a sign which convey a message, identify a business, or describe products or services offered to the public.

Sign, canopy. Refer to "Sign, marquee."

Sign, abandoned shall mean any sign face or sign structure which advertises a business no longer conducted on the premises for over 60 days. In making the determination that a sign advertises a business no longer being conducted, the City Manager shall consider any or all of the following: the existence or absence of a current local business tax receipt, use of the premises, and relocation of the business.

Sign, add-on shall mean any additional sign added to a previously permitted and/or conforming sign.

Sign, advertising structure shall mean any structure installed for advertising purposes, with or without any advertisement display thereon, situated upon or attached to real property upon which any poster, bill, printing, painting, device or other advertisement of any kind whatsoever may be placed, posted, painted, tacked, nailed or otherwise fastened, affixed or displayed; provided, however, that said term shall not include buildings.

Sign, A-frame shall mean a movable sign not secure or attached to the ground as required by this Code.

Sign, animated shall mean a sign with physical or light action or motion or the appearance thereof, including lenticulation, wind actuated elements, rotating, oscillating, fluttering, flashing, or swinging signs, or banners (see "Sign, wind").

Sign, awning shall mean a structure supported entirely from exterior wall of a building and composed of non-rigid materials (except for the supporting framework) upon which a sign is indelibly drawn, painted, applied or printed.

Sign, background area shall mean the entire background area of a sign upon which copy could be placed. In computing the area of a sign background, only that face or faces which can be seen from any one direction at one time shall be counted (see "Copy area of sign").

Sign, banner shall mean a temporary on-site sign made of canvas or other flexible materials with or without a structural frame and attached to a building, canopy, pole or other structure placed for the purpose of attracting attention.

Sign, billboard shall mean any sign over 200 square feet in area, including any ground sign or sign mounted on a building or other structure.

Sign, blade shall mean a sign frame with a mounting bracket that is typically maintained perpendicular to the wall.

Sign, canopy shall mean a sign which is suspended from, attached to, printed on, supported from or forming a part of a canopy.

Sign, changeable copy shall mean a sign which has message characters that are not permanently attached to the sign, but which are attached to permit numerous changes of the message at the sign site without the repainting of any part of the sign or removal of any parts of the sign except the characters to be changed; also called a readerboard.

Sign copy shall mean the area of a sign that consists of letters, numbers, symbols, pictures, illustrations, announcements, insignia, trademarks or the like.

Sign copy area shall mean the surface area of a sign upon which its copy is displayed. (Refer to ~~section 5-36~~Sec. 11.8(a)(2) to determine the method of calculating the copy area square footage.) (See "Background area of a sign".)

Sign, double-faced shall mean a sign with two copy areas which are parallel to each other and back to back with the maximum distance between the copy areas not to exceed two feet.

Sign, electric. See "Illuminated sign."

Sign, electronic message center shall mean a sign capable of displaying words and symbols that can be electronically or mechanically changed by remote or automatic means.

Sign, entrance shall mean an identification structure located at the main entrance to a City approved subdivision or development.

Sign, flashing. See "Animated sign."

Sign, frame effect shall mean a visual effect on an electronic message center applied to a single frame to transition from one message to the next.

Sign, freestanding. See "Ground sign."

Sign, governmental shall mean signs owned by any governmental entity.

Sign, ground shall mean a sign which is supported by one or more columns, uprights, or braces in or upon the ground and independent of any support from buildings or other structures.

Sign, identification shall mean one sign per business location not more than three square feet in area. The top of said sign shall be no more than eight feet above ground level.

Sign, illuminated shall mean a sign in which a source of light is used in order to make the message readable, including internally and externally lighted signs.

Sign, marquee shall mean any sign attached to the side or front or hung under a marquee, which sign shall not extend above the top of a marquee or shall not be mounted upon the top of the marquee.

Sign, monument shall mean a ground sign with an enclosed base equal to at least two-thirds of the horizontal width of the sign surface and not exceeding eight feet in overall height. The base of the sign must come in complete contact with the ground and there shall be no gaps between the base and the ground cover or sod.

Sign, nonconforming shall mean any sign which does not comply with the regulations of this Code, or subsequent amendments.

Sign, off-premises shall mean a third-party sign. It is a sign that advertises goods, products, services or facilities or directs persons to a different location from where the sign is installed.

Sign, on-premises, shall mean a sign erected by the owner or lessee of a premises that is incidental, subordinate and accessory to the permitted principal use or structure and located on the same premises of such principal use or structure. It is a sign identifying a business, person, activity, goods or services located on the premises where the sign is installed and maintained.

~~Sign, portable, shall mean a sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support constructed without wheels is converted to an A- or T-frame sign, or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign. It is characteristic of such a portable sign that the space provided for advertising matter consists of a sign that is mounted on a vehicle normally licensed by the state as a trailer.~~

Sign, projecting, shall mean a sign erected or designed as an integral part of a building or structure that extends more than 12 inches and less than four feet beyond such building or structure.

Sign, revolving. See "Animated sign."

Sign, roof shall mean any outdoor advertising display sign, installed, constructed or maintained above the roofline of any building.

Sign, rotating. See "Animated sign."

~~Site plan shall mean the plan required by division 3, article II of chapter 4 to obtain a development order or permit which shows the means by which the developer will conform with the requirements of this Code.~~

Sign, sandwich. See "A-frame sign."

Sign, sidewalk. See "A-frame sign."

~~Sign, snipe Skirting shall mean a type of wall constructed of approved fire and weather resistant material enclosing the area between the ground and floor of a mobile home dwelling.~~

~~Small site plan shall encompass buildings and/or paving areas of 5,000 square feet or less.~~

~~Small tree shall mean tree species that customarily grow no more that 30 feet in height and have a maximum crown spread of 25 feet.~~

Snipe sign shall mean any sign of any size, made of any material, including paper, cardboard, wood and metal, when such sign is tacked, nailed, posted, pasted, glued or otherwise installed on the ground, attached to a tree, utility pole, fence or similar objects, ~~and the advertising matter appearing thereon is not applicable to the premises upon which said sign is located.~~ Also includes any sign installed without permission of the owner of the property upon which the sign is located.

Sign, swinging. See "Animated sign."

Sign, temporary, is a sign erected for a short duration. Refer to Sec. 11.7.

Sign, time and temperature shall mean a sign containing illuminated numerals flashing alternately to show the time and/or temperature.

Sign, vee-shaped shall mean any sign which has two faces which are not parallel, and which form an angle of 60 degrees or more.

Sign, wall shall mean any sign erected parallel to the facade or on the outside wall of any building and supported throughout its length by the wall of the building.

Sign, warning shall mean a sign conveying instructions or indicate the dangers of trespassing, swimming, animals, or similar hazards (e.g., "Danger—Bad Dog," "Keep Off").

Sign, wind shall mean any sign, pennant, ribbon, spinner, streamer, flag, feather, captive balloon, or other objects or materials fastened in such a manner as to move upon being subjected to pressure by wind and/or acting to draw attention to a business, product, service or activity.

Sign, window shall mean any sign installed upon the window of any building or structure, visible from the exterior of the building.

Skirting shall mean a type of wall constructed of approved fire- and weather-resistant material enclosing the area between the ground and floor of a mobile home dwelling.

Special exception shall mean a use requiring City Council approval and expressly so designated that would not be appropriate generally or without restriction throughout a particular zoning classification but that would not adversely affect the public health, safety, comfort, good order, appearance, convenience, morals or general welfare, if controlled in number, area, location, relation to the neighborhood, or in other appropriate respects. The term "conditional use" is synonymous.

Special flood hazard area shall mean the same as "area of special flood hazard."

~~Specimen tree~~ shall mean the following species of trees with the minimum specified DBH are determined to be specimen trees in the City:

Common Name	Botanical Name	DBH
Turkey Oak	Quercus leavis	12 inches and larger
Other Oak species	Quercus spp.	18 inches and larger
Maple	Acer spp.	18 inches and larger
Sweet Gum	Liquidambar styraciflua	18 inches and larger
Hickory	Carya spp.	18 inches and larger
Elm	Ulmus spp.	18 inches and larger
Loblolly Bay	Gordonia lasianthus	12 inches and larger
Sweet Bay	Magnolia virginiana	12 inches and larger
Red Bay	Persea borbonia	12 inches and larger
Swamp Bay	Persea palustris	12 inches and larger
Sycamore	Platanus occidentalis	18 inches and larger
Magnolia	Magnolia grandiflora	12 inches and larger
Bald Cypress	Taxodium distichum	18 inches and larger

Red Cedar	<i>Juniperus silicicola</i>	12 inches and larger
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Spill shall mean the ~~unpermitted releases~~ spilling, leaking, pumping, pouring, emitting, or escapedumping of any hazardous substance, directlywaste or indirectlymaterial which creates an emergency hazardous situation or is expected to create an emergency hazardous situation, as defined by F.S. 768.128.

Spot zoning shall mean a rezoning of a lot or parcel of land area smaller than 10 acres, ~~to soils, surface waters or groundwaters.~~ benefit an owner for a use incompatible with surrounding uses within a 300-foot radius. The rezoning is not for the purpose or effect of furthering the Comprehensive Plan.

Start of construction shall mean, for other than new construction or substantial improvements under the Coastal Barrier Resources Act P.L. 97-348, and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement or permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building.

State shall mean the State of Florida.

Storage system, as defined by F.S. 376.301, shall mean a stationary tank not covered under the provisions of Chapter 377 of the Florida Statutes, together with any on-site integral piping or combination of tanks, sumps, wet floors, waste treatment facilities, pipes, vaults, dispensing system associated therewith, which is or other portable or fixed containershas been used, or designed to be used, for the storage of or supply of any petroleum product, pollutant, or hazardous substances at a facility.substance as defined in F.S. 376.301, and which is registered with the Department of Environmental Protection under Chapter 376 of the Florida Statutes or any rule adopted pursuant to that Chapter.

Storefront zone. Portion of the front yard setback to allow for seating areas, planters/planting areas, bicycle racks, temporary sale/display of merchandise, moveable sandwich boards, postal/freight collection boxes, public art, etc.

Stormwater management system facility ~~shall mean a system of manmade structures or natural resources designed or used to collect, convey, hold, divert or discharge stormwater, and includes stormwater sewers, canals, detention structures, retention structures, lakes, holding basins, wetlands, and natural depressions.~~ shall mean a system designed and constructed or implemented to control discharges that are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system, as defined by F.S. 403.031.

Stormwater retention facility shall mean a structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage for a given storm event.

Story shall mean ~~each,~~ as defined by the Florida Building Code, that portion of a building included between the upper surface of anya floor and the upper surface of the floor or roof next above. A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and any portion which is used, for human occupancy between the topmost story, from the top of the floor

~~and finish to the roof. A basement top of the ceiling joists or cellar shall, where there is not be deemed a story unless used for human occupancy. a ceiling, to the top of the roof rafters.~~

Street shall mean, as defined by F.S. 177.031 any access way ~~which affords a primary means of vehicular access to abutting properties~~ such as a street, road, lane, highway, avenue, boulevard, alley, parkway, viaduct, circle, court, terrace, place, or cul-de-sac. ~~It, and also~~ includes all of the land lying between the right-of-way lines as delineated on a plat showing such streets, whether improved or unimproved, but ~~does~~ shall not include those access ways such as easements and rights-of-way intended solely for limited utility purposes, such as for electric power lines, gas lines, telephone lines, water lines, drainage and sanitary sewers, and easements of ingress and egress.

~~(1) Arterial or arterial street road shall mean a route providing service which is or has the potential relatively continuous and of relatively continuous and/or relatively high traffic volume, long average trip length, high operative operating speed, and high mobility importance. In addition, allevery United States or state numbered highways shall be considered arterial roads.~~

~~(1) (2) Local street shall mean a route primarily providing access to abutting properties and connecting individual properties with the network of higher level streets and roads. Service highway is relatively continuous and of relatively low traffic volume, short average trip length, low operating speed, and low mobility importance. an arterial road, as defined by F.S. 334.03.~~

~~(3) Minor arterial street shall mean a route which generally interconnects with and augments urban principal arterial routes and provides service to trips of shorter length and a lower level of travel mobility. Such routes include all arterials not classified as principal and contain facilities that place more emphasis on land access than the higher system.~~

~~(2) (4) Principal arterial street shall mean~~ Urban principal arterial street shall mean, as defined by F.S. 334.03 a route which generally serves the major centers of activity of an urban area, the highest traffic volume corridors, and the longest trip purpose, and carries a high proportion of the total urban area travel on a minimum of mileage. ~~The routes~~ Such roads are integrated, both internally and between major rural connections.

~~(3) Urban minor arterial street shall mean a route that generally interconnects with and augments an urban principal arterial road and provides service to trips of shorter length and a lower level of travel mobility. The term includes all arterials not classified as "principal" and contain facilities that place more emphasis on land access than the higher system, as defined by F.S. 334.03.~~

~~(4) Collector road shall mean a route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serve as a linkage between land access and mobility needs, as defined by F.S. 334.03.~~

~~(5) Local street shall mean a route providing service which is of relatively low average traffic volume, short average trip length or minimal through-traffic movements, and high land access for abutting property, as defined by F.S. 334.03.~~

~~Street, private shall mean, except as other provided in F.S. 316.003(64)(b), any privately owned and maintained way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.~~

Streetscape. The urban element that establishes the major part of the public realm. The streetscape is composed of thoroughfares (travel lanes for vehicles and bicycles, parking lanes for cars, and sidewalks or paths for pedestrians) as well as the visible private frontages (building facades and elevations, porches, yards, fences, awnings, etc.) and the amenities of the public frontages (street trees and plantings, benches, streetlights, etc.).

Street tree/furniture zone. That portion of the sidewalk located between the curb line and the sidewalk clear in which the following elements may be located.

- Street trees/grates, planting strips, raised planters;
- Street light standards;
- Street signs/pedestrian wayfinding signs;
- Transit stops;
- Postal/freight collection boxes;
- Parking meters;
- Utility boxes/public phones/fire protection;
- Seating;
- Trash receptacles;
- Bicycle racks.

Structure shall mean any object constructed or installed ~~by man.~~ The term "structure" means, for, the use of which requires a permanent location on the ground. The term includes, but is not limited to, buildings, gazebos, sheds, kiosks, pergolas, perimeter fences and walls, swimming pools, and signs, but does not include tents, vehicles or facilities associated with the provision of utilities such as drains, wells, transformers or light poles. For floodplain management purposes, the term "structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Subdivision shall mean, ~~as defined by F.S. 177.031~~ the division of ~~a parcel or tract of land, whether improved or unimproved~~ and in accordance with the requirements of F.S. 177, into ~~two~~ three or more lots or parcels of land for the purpose, whether immediate or future, of any kind of transfer of ownership or right to possession, or for, tracts, tiers, blocks, sites, units, or any building development, including a condominium, in which there is or is intended to be:

(1) ~~Any other~~ division of any parcel or tract into units; or

(2) ~~Any division of the air space into units above or contiguous to any parcel or tract held in common, undivided ownership. If the land; and includes establishment of a new street is involved, this term shall mean any division of any parcel or tract of land. Subdivision includes a resubdivision and replatting streets and alleys, additions, and resubdivisions;~~ and, when appropriate to the context, shall ~~relate~~ relate to the process of subdividing or to the ~~land~~ lands or area subdivided.

Subdivision record shall mean an index card, computer file or other historic record under the maintenance and supervision of the ~~LDM or DEDGMD~~ which indicates the status of recorded or unrecorded subdivisions based on reviews performed pursuant to previous exemptions or other criteria.

Substantial damage shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the value of the structure before the damage occurred, as determined by FEMA.

Substantial improvement, as defined by the Florida Building Code, shall mean any repair, reconstruction, rehabilitation, alteration, repair, reconstruction, addition or other improvement of a building or structure, the cost of which equals or exceeds ~~over a five-year period, a cumulative total of 50 percent of the building's market value as determined by the property appraiser or a certified appraisal either of the structure before the alteration, repair, reconstruction or improvement or repair is started, or if. If the structure has been damaged and is being restored, before the sustained substantial damage occurred. For the purpose of this definition, "any repairs are considered substantial improvement" ~~is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. regardless of the actual repair work performed~~ The term does not, however, include ~~any alteration, repair, reconstruction or either:~~~~

- (1) Any project for improvement of a building required to comply with correct existing state or local health, sanitary or safety codes that are solely code violations identified by the building official and that is the minimum necessary to assure safe living conditions, nor any alteration of a

~~building listed on the National Register of Historic Places or a state inventory of historic places.~~

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~~Substantially improved existing manufactured home parks or subdivision shall mean where the repair, reconstruction, rehabilitation or improvements of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.~~

(2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

~~Surveyor shall mean a professional surveyor and mapper registered by the state and qualified to provide land surveying services applicable to land development authorized to practice surveying and mapping under the provisions of Chapter 472 of the Florida Statutes, as defined by F.S. 177.503.~~

Telecommunication tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, amateur operator radio towers, cellular telephone towers, alternative tower structures, associated equipment structures, micro wireless facilities and the like.

(1) Monopole tower shall mean a single, self-supporting communication tower of spin-cast concrete, concrete, steel or other similar materials containing no guy wires.

(2) Self-supporting lattice tower shall mean a communication tower which is self-supporting and has three or more sides of open-framed supports.

(3) Guyed tower shall mean a communication tower which is anchored with guy wires. ~~Swinging sign.~~ See "Animated sign."

~~Tenant frontage shall mean each lineal foot, major portion thereof, measured along the main entry of a tenant space.~~

Terra-cotta. A hard, fired clay, reddish-brown in color when unglazed, used for architectural facings and ornaments, tile units and pottery.

~~The traveled way, as defined by FDOT, shall mean the paved portion of the roadway or that surface between both edges for the movement of pavement or back vehicles, exclusive of curb, including, but not limited to, turn shoulders and bicycle lanes, parking. The traveled way includes travel lanes, deceleration and acceleration auxiliary lanes, or 12 feet from the centerline on both sides of the right-of-way of unpaved roads.~~

~~Time and temperature sign shall mean a sign containing illuminated numerals flashing alternately to show the time and/or temperature.~~

~~Tinted glass shall mean any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent or less. Such transmittance is limited to the visible spectrum (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the glass.~~

~~To plat shall mean to divide or subdivide land into lots, blocks, parcels, tracts, sites or other divisions, however the same may be designated, and the recording of a plat in the office of the clerk of the circuit court of the county. The term "to plat" shall include replat.~~

~~Toe shall mean the lowest part of an embankment.~~

~~Townhouse shall mean an individually owned a single-family standard or manufactured dwelling unit not exceeding three stories in height constructed as in a group of threetwo or more attached single-family dwellings, units in which each unit extends from the foundation to roof and with a yard or public way on its own lot.~~

~~Traffic analysis zone shall mean a limited geographic area not less than two sides, as defined and used for traffic modeling and analysis, by the Florida Building Code.~~

Traffic impact analysis shall mean a study prepared by a qualified professional engineer, licensed to practice within the state, to determine the vehicular impact of the development upon the major road network system. This study includes: determination of trip generation; trip distribution; traffic assignment; capacity analysis; and improvements to the roadway system necessitated by the development, such as required new roads, additional lanes and signalization.

Trailer shall mean any vehicle without motormotive power of its own, designed for carrying passengers or property, and to be coupled to or drawn by an automobile, motor truck or tractor. It is intended to a motor vehicle and constructed so that some parts of its weight and that of its load rests upon or is carried by another vehicle.

Transit oriented development. Land use planning concept that promotes mix of residential, commercial, office and public uses, all within a comfortable walking distance to maximize access to public transportation, and incorporates features to encourage transit ridership. Examples of transit-supportive land uses include the terms "tractor-trailer" and "semitrailer," but are not to include "mobile home" or "mobile" limited to the following: apartments; live-work units; townhouses; single-family houses; lodging; retail stores; restaurants; banks; private offices/professional businesses; government offices; medical centers; high schools and post-secondary institutions; child-care centers; libraries; recreational shelters and cultural facilities; theatres; public spaces; and other facilities.

Transition line shall mean a horizontal line spanning the full width of a facade, expressed by a material change or by a continuous horizontal articulation such as a cornice or vehicles. a balcony.

Trash shall mean the combination of yard trash and construction and demolition debris along with other debris such as paper, cardboard, cloth, glass, street sweepings, and other like matter.

Tree shall mean any woody self-supporting plant characterized by having a single trunk of at least six inches DBH or multistem trunk system with a well-developed crown at least 15 feet high as measured from its base.

Tree, caliper shall mean trunk diameter measurement of trees. The trunk caliper (trunk diameter) is measured 12 inches above the ground for trees. Since trunks are seldom round, the average of the largest diameter and that perpendicular to it is referred to as caliper. Any accurate device including a diameter tape may be used to measure caliper.

Tree, Canopy shall mean the branches, leaves, or other foliage from woody vegetation exceeding five (5) feet in height. The area of tree canopy may be measured by determining the area surrounding a tree located within the dripline.

Tree, clear trunk shall mean height measurement of the base portion of a tree trunk which is void of any foliage or branching measured from the natural soil line to the base of the lowest branches or fronds.

Tree, cross sectional area shall mean the area of the trunk of a tree taken 4½ feet above the base of the tree measured perpendicular to the axis of the trunk.

Tree, deteriorated shall mean a deceased tree, or degenerated or damaged to the point where death of the tree is imminent or to the point where the tree poses a significant hazard.

Tree, diameter at breast height (DBH) shall mean the trunk diameter of a tree measured 4½ feet above the average ground level at the base of the tree; provided, however, if the tree forks above 4½ feet above ground level, it is measured below the swell resulting from the double stem. Stems that fork below 4½ feet above ground level shall be considered separate trees.

Tree, drip line shall mean the peripheral limits of the horizontal crown of a tree spread vertically to the ground; provided, however, that the same shall not be less than a circle with a ten-foot radius measured from the center of the tree.

Tree, effectively destroy shall mean to cause, suffer, allow or permit any act which will cause a tree to die or go into a period of unnatural decline within a period of two years from the date of the act. Acts which may effectively destroy a tree include, but are not limited to, damage inflicted upon the root system by heavy machinery, excessive trimming, changing the natural grade above the root system or around the trunk, damage inflicted on the tree permitting infection or pest infestation, application of herbicides or other

chemical agents or intentional fire damage to the tree permitting infection or pest infestation, the infliction of a trunk wound that is 50 percent or greater of the circumference of the trunk, or the removal of sufficient canopy to cause the unnatural decline of the tree.

Trees, historic shall mean a healthy cypress with a trunk DBH of 36 inches, a healthy live oak tree with a trunk DBH of 30 inches or a healthy magnolia tree with a trunk DBH of 24 inches.

Tree, protected shall mean any tree that is at least six (6) inches DBH and not identified as prohibited trees in this code.

Tree, prohibited shall mean any of the following tree species:

<u>Common Name</u>	<u>Botanical Name</u>
<u>Australian Pine</u>	<u>Casuarina litorea</u>
<u>Australian Pine</u>	<u>Casuarina glauca</u>
<u>Brazilian Pepper</u>	<u>Schinus terebinthefolius</u>
<u>Camphor Tree</u>	<u>Cinnamomum camphora</u>
<u>Chinaberry</u>	<u>Melia azedarach</u>
<u>Citrus</u>	<u>Citrus species</u>
<u>Ear Pod Tree</u>	<u>Enterolobium cyclocarpa</u>
<u>Eucalyptus</u>	<u>Eucalyptus species</u>
<u>Punk Tree or Cajeput</u>	<u>Melaleuca quinquenervia</u>
<u>Silk Oak</u>	<u>Grevillea robusta</u>
<u>Woman's Tongue</u>	<u>Albizia lebeck</u>
<u>Chinese Tallow Tree</u>	<u>Sapium Sebiferum</u>
<u>Carrot Wood</u>	<u>Cupanoipsis anacardioides</u>
<u>Ear Leaf Acacia</u>	<u>Acacia auriculiformis</u>
<u>Melaleuca</u>	<u>Melaleuca quinquenervia</u>

Tree, removal shall mean to cut down, dig up, destroy, effectively destroy, or the unlicensed relocation of any tree.

Tree, replacement stock shall mean any immature tree having an overall height of at least six feet but does not include any prohibited tree. In addition, replacement stock shall have a minimum caliper of two inches.

Tree, shade shall mean tree species that customarily grow over 30 feet in height and have a minimum crown spread of 35 feet.

Tree, small shall mean tree species that customarily grow no more than 30 feet in height and have a maximum crown spread of 25 feet.

Tree, specimen shall mean the following species of trees with the minimum specified DBH are determined to be specimen trees in the City:

<u>Common Name</u>	<u>Botanical Name</u>	<u>DBH</u>
<u>Turkey Oak</u>	<u>Quercus leavis</u>	<u>12 inches and larger</u>
<u>Other Oak species</u>	<u>Quercus spp.</u>	<u>18 inches and larger</u>

Maple	Acer spp.	18 inches and larger
Sweet Gum	Liquidambar styraciflua	18 inches and larger
Hickory	Carya spp.	18 inches and larger
Elm	Ulmus spp.	18 inches and larger
Loblolly Bay	Gordonia lasianthus	12 inches and larger
Sweet Bay	Magnolia virginiana	12 inches and larger
Red Bay	Persea borbonia	12 inches and larger
Swamp Bay	Persea palustris	12 inches and larger
Sycamore	Platanus occidentalis	18 inches and larger
Magnolia	Magnolia grandiflora	12 inches and larger
Bald Cypress	Taxodium distichum	18 inches and larger
Red Cedar	Juniperus silicicola	12 inches and larger

Tree, understory shall mean a species of tree which normally grows to a mature height of fifteen (15) to thirty-nine (39) feet.

Trip shall mean a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end).

Trip generation shall mean the attraction or production of trips caused by a given type of land development.

Urban sprawl shall mean a development pattern characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses.

USGS shall mean United States Geological Survey.

Utilities shall include, but is not limited to, water systems, electrical power, sanitary sewer systems, gas distribution systems, storm drainage systems, telephone systems, and cable television systems.

Variance shall mean a grant of relief from the requirements of this Code, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this article or the Florida Building Code.

~~Vee-shaped sign~~ VCPS shall mean and refer to the Volusia County Public Schools, the county school district.

Vehicle shall mean any ~~sign which has two faces which are not parallel and which form an angle of 60 degrees~~ device used for transporting persons or more.

~~Vehicular sign~~ shall mean a sign affixed to property over streets or painted on a ~~transportation~~ waterways, including, but not limited to, any automobile, motorcycle, truck, trailer, van, semi-trailer, tractor-trailer, commercial vehicle or trailer, for the purpose of business advertising; however, not to include signs affixed to ~~arecreational~~ vehicle or trailers for identification purposes. ~~trailer, and boat or boat trailer. drive~~

Vehicular use area shall mean any area of a development site used for circulation, parking, or display of any type of vehicle.

Vending operations shall mean, for purposes of this Code, any person, persons, firms, business association or corporation engaging in the sale, trade or other exchange of any materials or goods, including

but not limited to fruits, vegetables, or other food stuffs, souvenirs, trinkets, art objects, etc., from a vehicle or temporary structure.

Vested right shall mean the right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan

~~Violation shall mean the failure of a structure or other development to be fully compliant with the requirements of this Code. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Code is presumed to be in violation until such time as that documentation is provided.~~

~~Wall sign shall mean any sign erected parallel to the facade or on the outside wall of any building and supported throughout its length by the wall of the building.~~

Visual light transmission (VLT) shall mean the amount of visible light, expressed as a percentage, that passes through a window.

Warehouse shall mean any premises where the principal use is the storage of merchandise, products, or materials in bulk, for a fee or charge, or for distribution to other establishments operated by the same business enterprise or establishment. A warehouse may include accessory wholesale sales, but shall not be deemed to include retail sales establishments, motor freight terminals, or the bulk storage of flammable, explosive, toxic, or noxious materials as a principal use.

Water body shall mean a lake, pond or other natural body of water of any type.

Water surface elevation shall mean the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse shall mean a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water dependent uses include bait and tackle sales, bars (ancillary to principal water-dependent use), boat and marine engine sales, service, and rentals, boat docks and moorings, boat fuel sales, boat storage, commercial fishing, pleasure or excursion boat dockage, marinas (refer to Sec. 6.36 for additional regulations), marine-oriented research facilities, retail sales or rental of boating, fishing, diving, water skiing, bathing supplies, equipment, and accessories.

Well shall mean, as defined by F.S. 373.303, any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, acquisition, development, or artificial recharge of groundwater but such term does not include any well for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying; for inserting media to dispose of oil brines or to repressure oil-bearing or natural gas-bearing ~~formations~~ formation; for storing petroleum ~~or~~ natural gas, or other products; or for temporary dewatering or subsurface formations for mining, quarrying, or construction purposes.

Well field shall mean an area of land which contains one or more potable water supply ~~well~~ wells.

Wetland Buffer shall mean upland areas adjacent to wetlands which are necessary to protect the wetlands and wetland species from the detrimental impacts of development or alteration. The buffer shall include canopy, understory and groundcover which consists of preserved existing vegetation or planted native species.

Wetlands shall mean ~~lands which are identified, as defined by being~~ F.S. 373.019, that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and ~~that~~ under normal circumstances do ~~or would~~ support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The definition includes all contiguous and noncontiguous or isolated wetlands to waters, water bodies, and watercourses. Wetlands include, but are not limited to, swamp hammocks, hardwood hydric hammocks, riverine cypress, cypress ponds, The

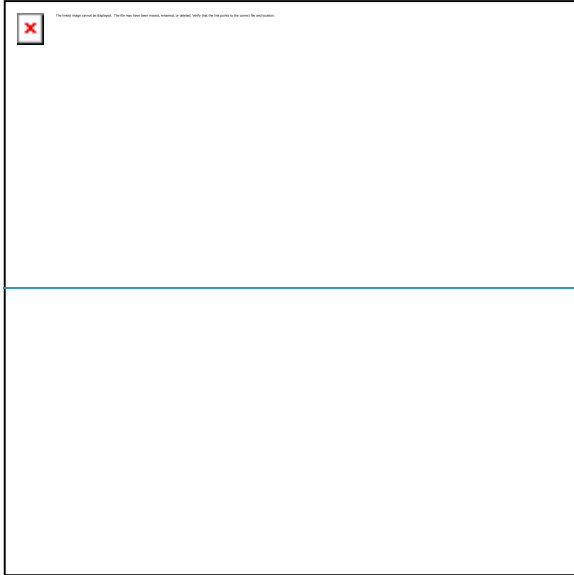
prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, freshwater marshes, tidal flats, saltwater swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and marine meadows. The landward extent of wetlands shall be determined in accordance with F.A.C. ch. 62-340. Wetlands shall be defined as in F.S. § 373.019.

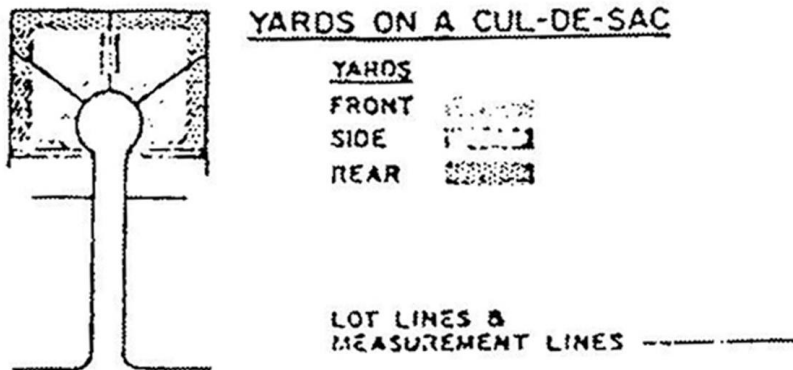
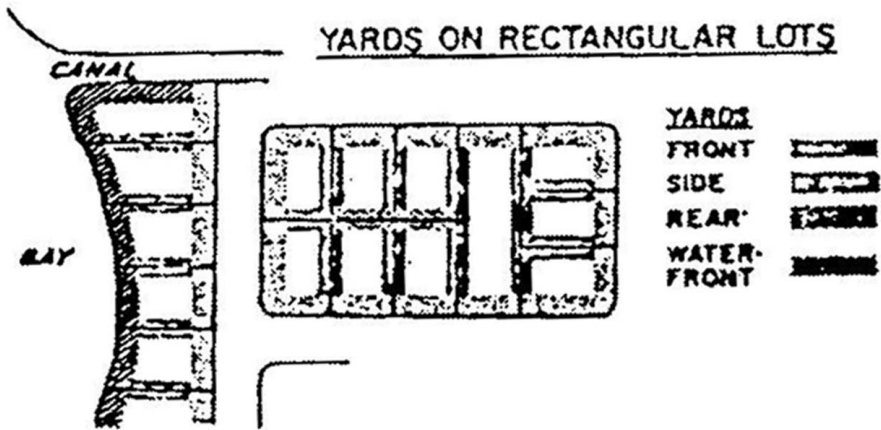
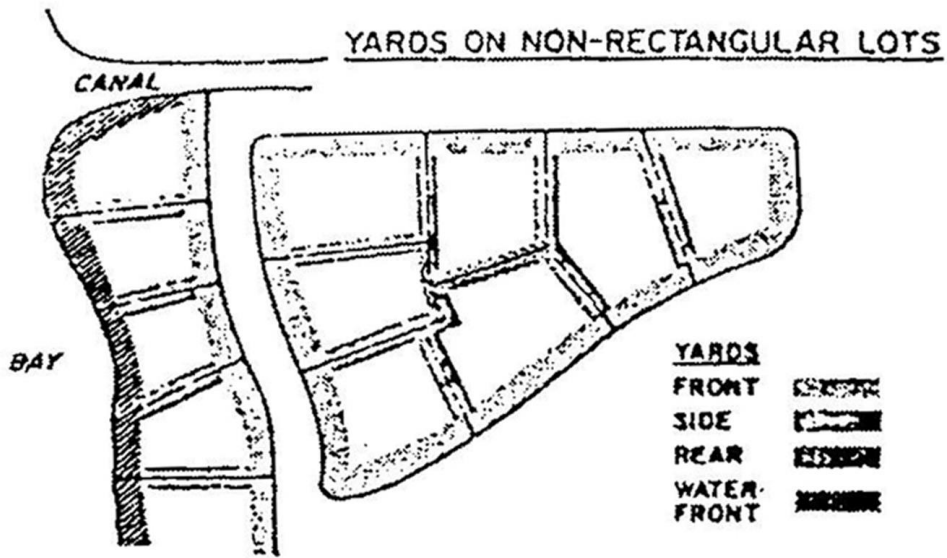
~~Window sign shall mean any sign installed or maintained inside or upon the window of any building or structure, visible from the exterior of the building.~~

=====

~~Yard shall mean the required setback area between the property line and the building line. Yards are referred to by their location on the lot:~~

- ~~(1) (1) Front yard shall mean the entire width of the yard abutting the street. On through lots abutting more than one public street, all yards abutting streets are front yards. On corner lots, both yards abutting streets shall be considered to be front yards.~~
- ~~(1) (2) Side yard shall mean the yard or yards bounded by the front and rear yards, or by the front yards on a through lot.~~
- ~~(3) Rear yard shall mean the entire width of the yard abutting that lot line farthest from and generally parallel to the front yard. On corner lots, the yard opposite the street toward which the principal building is oriented shall be the rear yard and other yards which are not front yards shall be side yards.~~
- ~~(4) Waterfront yard shall mean the yard abutting a natural or artificial water body (lake or pond) larger than 5,000 square feet, or a watercourse (stream or creek) greater than ten feet in width.~~





Yard trash shall mean vegetative matter resulting from landscaping maintenance or land clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees

~~and stumps similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.~~

Xeriscape shall mean a landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system. The principles of xeriscape include planning and design, appropriate choice of plants, soil analysis, the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.

Yard shall mean the area between the property line and the building line. Yards are referred to by their location on the lot:

- (1) *Front yard* shall mean the entire width of the yard abutting the street. On through lots abutting more than one public street, all yards abutting streets are front yards. On corner lots, both yards abutting streets shall be considered to be front yards.
- (2) *Side yard* shall mean the yard or yards bounded by the front and rear yards, or by the front yards on a through lot.
- (3) *Rear yard* shall mean the entire width of the yard abutting that lot line farthest from and generally parallel to the front yard. On corner lots, other yards which are not front yards shall be side yards.
- (4) *Waterfront yard* shall mean the yard abutting a natural or artificial water body (lake or pond) larger than 5,000 square feet, or a watercourse (stream or creek) greater than ten feet in width.

Please see Appendix C for illustrations.

Yard trash shall mean vegetative matter resulting from landscaping maintenance or land clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and stumps.

Zoning Map (Official) shall mean a graphic illustration of zoning boundaries and classifications drawn and approved as part of the records of the City.

~~(Ord. No. 11-99, § 2, 11-3-1999; Ord. No. 11-00, § 2, 9-6-2000; Ord. No. 08-07, 3-7-2007; Ord. No. 06-08, § 1, 5-7-2008; Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. 07-13, § 2(Exh. A), 8-7-2013, § 2(Exh. A), 8-7-2013; Ord. No. 13-16, § 2(Exh. A), 1-4-2017; Ord. No. 02-18, § 2, 3-7-2018; Ord. No. 02-2022, § 2, 2-16-2022; Ord. No. 11-2022, § 4, 9-21-2022)~~

~~Sec. 3-3. Rules of construction.~~

~~While it is the intent of this Code that the regulations identified in sections 3-1 and 3-2 shall apply within the City, it is not the intent that all procedural provisions or assignment of responsibilities to specific officials shall apply. Where the above referenced sections identify actions or responsibilities of other officials or boards, the action or responsibility is assigned by this Code to the City Manager, and the provision in question shall be so interpreted. Where there is a question as to whether the provision involves a procedure, or how the standard shall be administered, the City Manager will make the determination, which may be appealed pursuant to section 1-7.~~

~~(Ord. No. 01-99, § 1(301.4), 11-3-1999)~~

[Sec. 4-2-](#)) (Ord. No. 01-14 , § 2, 2-5-2014) (Ord. No. 13-10, § 2(Exh. A), 12-29-2010)

Sec. 2.3. - Abbreviations.

AASHTO	The American Association of State Highway and Transportation Officials.
ANSI	American National Standards Institute
ASTM	American Society for Testing and Materials
C.F.R.	Code of Federal Regulations
CPNCPS	Conceptual Site Plan
CDE	City Development Engineer
DRC	Development Review Committee
EMD	Environmental Management District
F.A.C.	Florida Administrative Code
FBC	Florida Building Code
FDOT	Florida Department of Transportation
FPLFPR	Final Plat
F.S.	Florida Statutes
FSP	Final Site Plan
LDDGMD	Land Development Division Growth Management Director
LDM-LDC	City of DeBary Land Development Manager Code.
ODP	Overall Development Plan
PPLPPR	Preliminary Plat and Construction Plan
PUD	Planned Unit Development
SJRWMD	St. Johns River Water Management District
-	
TOD	Transit Oriented Development

Sec. 2.4. - List of reference publications, latest editions.

Following is a list of the latest editions of reference publications:

- (1) [Highway Capacity Manual, Transportation Research Board.](#)
- (2) ["County of Volusia Soil Survey" - Soil survey of Volusia County, Florida, United States Department of Agriculture, Soil Conservation Service.](#)
- (3) [ITE Trip Generation Manual.](#)
- (4) ["FDOT Minimum Standards for Streets and Highways" - Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, State of Florida, Developed by the state department of transportation in accordance with F.S. § 335.075, \(herein referred to as the "Green Book"\).](#)
- (5) ["AASHTO Geometric Design of Highways and Streets" - A Policy of Geometric Design of Highways and Streets, by the American Association of State Highway and Transportation Officials.](#)

- (6) "FDOT Standard Specifications for Road and Bridge Construction" - Florida Department of Transportation Standard Specifications for Road and Bridge Construction.
- (7) "USDOT Manual on Uniform Traffic Control Devices" - Manual on Uniform Traffic Control Devices for Streets and Highways, United States Department of Transportation.
- (8) "FDOT Utility Accommodation Guide" - Utility Accommodation Guide, State of Florida Department of Transportation.
- (9) "FDOT Roadway and Traffic Design Standards" - State of Florida Department of Transportation.
(Ord. No. 96-32, § I, 12-19-1996)

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CHAPTER 1 - GENERAL PROVISIONS

Sec. 1.1. - Short title.

This Code shall be known as the "Land Development Code for the City of DeBary, Florida" and may be referred to as the "Land Development Code," "this Code," or the "LDC."

(Ord. No. 01-99, § 1(101), 11-3-1999)

Sec. 1.2. - Authority and purpose.

- (a) *Authority.* This Code is enacted pursuant to F.S. § 163.3202, and F.S. § 166, and the Charter and ordinances of the City.
- (b) *Purpose.*
 - (1) In accordance with F.S. § 163.3202, this Code is adopted to implement the Comprehensive Plan of the City by ensuring that all development orders issued by the City are consistent with the City's adopted Comprehensive Plan.
 - (2) This Code establishes regulations for the use of land and water, redevelopment, subdivision of land, site design, stormwater management, floodplain management, protection of environmentally sensitive lands, protection of potable water well fields, prevention of blight and deterioration of property, preservation of historic resources, prevention of the overcrowding of land and undue concentration of population; and provides for transportation, public utilities, schools, parks, and other public infrastructure, the maintenance of levels of service for infrastructure, and other regulations necessary to prevent urban sprawl and promote the general health, safety, and welfare of the people.
 - (3) Land owned by the City of DeBary and developed or used for public parks or any City governmental function that promotes or benefits the comfort, convenience, safety, general welfare and happiness of citizens may not be regulated by this Code as such use of lands is considered to be for the best interest of the citizens of DeBary.
- (c) *Conflict.* In the event of a conflict between any regulations of this Code, or between these regulations and any other regulations governing the same activity, the most restrictive regulation shall apply, except when this language is in conflict with State Statutes and is preempted to the State. Where there is a conflict between this Code and the adopted Comprehensive Plan of the City, the provision of the Comprehensive Plan shall prevail.

(Ord. No. 01-99, § 1(102), 11-3-1999; Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

Sec. 1.3. - Enforcement and penalties.

The provisions of this Code may be enforced and violations punished by any of the following methods:

- (a) The Code Enforcement Special Magistrate shall have jurisdiction to enforce these regulations by a fine not exceeding \$250.00 per day or as established by State Statutes. Each day any violation shall continue shall constitute a separate offense.
- (b) The Code Enforcement Officer or their designee shall have jurisdiction to enforce these provisions, and any person, firm, corporation, or agent determined to be in violation shall be subject to all penalties and remedies available to the Special Magistrate as provided by law.
- (c) The City may institute any appropriate action or procedure to bring about compliance or remedy. The City may order discontinuance of the use of any land, water, or building, the removal of any building,

addition, or other structure, the discontinuance of any work being done, or any other act when such use or act is in violation of this Code.

- (d) The City may institute a citation process pursuant to state law and may enforce this Code under applicable procedures.
- (e) Specific provisions of this Code may provide for additional remedies.

Sec. 1.4. - Authority to enter property in performance of duties.

Any person acting under the direction of the City Manager in the performance of functions and duties pursuant to this Code shall be authorized to enter upon any land and make inspections, examinations, and surveys as necessary in its administration and enforcement, subject to the limitations set forth in state statutes.

Sec. 1.5. References to Other Laws.

References to applicable laws such as Florida Statutes, the Florida Administrative Code, the Florida Building Code, the United States Code, and to provisions of this Code or the City Code of Ordinances shall include all amendments and successor provisions thereto, unless specifically stated otherwise.

Sec. 1.6. - Nonconforming lots, structures, and uses.

- (a) Purpose and Intent. The purpose of this Section is to limit the continued existence and expansion of lots, structures, and uses established prior to the effective date of this Land Development Code which do not conform to the requirements of this Code. It is the general intent of this Section to reduce nonconformities and eventually bring lots, buildings and uses into conformance.
- (b) Nonconforming lots.
 - (1) A lot or parcel of land is nonconforming if it does not meet the minimum area and dimensional requirements of the zoning district in which it is located.
 - (2) Any lot or parcel made nonconforming solely as a result of eminent domain proceedings instituted by any governmental agency, or through a voluntary conveyance in lieu thereof, shall be deemed to be a conforming lot or parcel for all purposes. However, all development activity on such a lot or parcel shall be in accordance with district yard requirements at the time of development.
 - (3) Where two or more existing nonconforming lots with continuous frontage are under the same ownership, or where a nonconforming lot has continuous frontage with a large tract under the same ownership, nonconforming lots shall be combined to form one or more building sites meeting the lot requirements of the district.
 - (4) Except as provided herein, development of a single-family dwelling shall be permitted on a nonconforming lot of at least 5,000 square feet and 50 feet or more in width at the front building line in any zoning district in which the use is permitted, if remedy of the nonconformity by combination with other lots under the same owner is not available. This subsection does not apply to or authorize single-family dwelling development upon nonconforming lots in the Resource Corridor (RC) zoning district.
 - (5) The City Council shall have jurisdiction to authorize variances from the requirements of this subsection as provided for in Sec. 3.10.
- (c) Nonconforming buildings and structures.
 - (1) A building or structure is nonconforming if it does not meet the building setback, height, or bulk limitations of this Code.
 - (2) An existing nonconforming building or structure may be maintained and repaired, but shall not be structurally added onto or altered to further the nonconformance.

- (3) Full compliance with the Land Development Code shall be required if a nonconforming building or structure has suffered Substantial Damage, Substantial Structural Damage, proposes Substantial Improvement, or Substantial Structural Alteration, all as defined by the Florida Building Code, latest edition, or the structure is destroyed.
- (d) Nonconforming uses.
- (1) A use of land or of any building or structure is nonconforming if any of the following conditions apply:
 - a. The use is not currently permitted in the district in accordance with this Code.
 - b. The density or intensity of the use exceeds the density or intensity currently permitted in the district in accordance with this Code.
 - c. The site does not meet the applicable site development requirements of this Code or the Comprehensive Plan.
 - (2) An existing nonconforming use of any building or structure shall not be extended, enlarged, or expanded, or changed to another non-conforming use.
 - (3) Full compliance with the Land Development Code shall be required if a building or structure housing a nonconforming use has suffered Substantial Damage, Substantial Structural Damage, proposes Substantial Improvement, Substantial Structural Alteration, all as defined by the Florida Building Code, latest edition, or the structure is destroyed.
 - (4) No modification or waiver shall be permitted from the provisions of this section or dimensional and density restrictions in order to reestablish a nonconforming use.
 - (5) If the operation or use of a lawful nonconforming use on any property (or portion thereof) has been discontinued for a continuous period of six (6) months, such nonconforming use will be deemed abandoned, regardless of whether ownership of the property has changed or not, and may not be reestablished on such property (or portion thereof) without further action by the city. Upon abandonment of a nonconforming use, the use of the land, buildings and accessory structures (or portions thereof) shall be subject to all regulations specified by this code for the zoning district in which such property is located. The vacating of premises or a building or non-operative status of the use shall be evidence of a discontinued use. The city manager shall have the authority to render a decision as to whether there is a discontinuance of a lawful nonconforming use upon a property for the proscribed period. The city manager's written decision pursuant to this subsection may be appealed to the city council pursuant to Sec. 3.12.
- (e) *Vested development.* There are within the City, various properties, the development of which was previously declared to be "vested" under the regulations of the county. It is the intent of this Code that such "vested" status shall not be changed solely by virtue of the adoption of this Code.
- (1) For vested developments that are legal non-conforming uses, the City Manager may permit the addition of accessory structures including fences as well as aesthetic site improvements such as landscaping, if such improvements meet the following conditions and are not for the purpose of expanding or enlarging the nonconforming use.
 - a. The non-conforming use shall not be enlarged or increased nor extended to occupy a greater area of land than was originally occupied.
 - b. The improvement must comply with all other applicable laws and regulations including overlay district requirements and required setbacks.
 - c. No new non-conformities shall be created.

- d. The maximum lot coverage must not exceed that required by the site's zoning classification.
- (f) *Nonconforming site improvements (not including structure).* Where an existing site improvement (landscaping, parking lot layout, etc.) is non-conforming with the current regulations related to such, nothing in this section shall prohibit minor site improvements that result in the reduction of this non-conformity.
- (g) *Illegal uses.* This section does not authorize the continuance of any use or nonconformity which was not lawfully in existence at the time of the adoption of this Code.

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. 05-2021, § 2, 4-21-2021; Ord. No. 02-2022 § 3, 2-16-2022

Sec. 1.7. - Violations.

- (a) *Violations.* Any development that is not within the scope of the Florida Building Code but is regulated by this Code that is performed without an issued permit, is in conflict with an issued permit, or does not fully comply with this Code, shall be deemed a violation of this Code. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this Code or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.
- (b) *Authority.* For development that is not within the scope of the Florida Building Code but is regulated by this Code and is determined to be a violation, the City Manager or their designee is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.
- (c) *Unlawful continuance.* Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by Section 115 of the Florida Building Code.

(Ord. No. [01-14](#), § 2, 2-5-2014)

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CHAPTER 2 - DEFINITIONS

Sec. 2.1. Rules of construction.

- (a) *Generally.* The words used in this Code shall be construed to effect the intended purposes. Definitions of various words and phrases used throughout the Code are provided in this article. All words or phrases not specifically defined shall be given their common and usual meanings as determined by general usage and standard dictionary references.
- (b) *General rules of construction.* The following general rules of interpretation shall apply:
- (1) The present tense includes the future, and, where appropriate, the past.
 - (2) The singular number includes the plural, and vice versa. The male gender includes the female, and vice versa.
 - (3) The word "shall" and "must" are mandatory; the word "may" is permissive.
 - (4) Reference in one section of this Code to another section of this Code by section number shall include all subsections within that section.
 - (5) Where appropriate to the context, words and terms defined in the Florida Statutes shall apply here. Some sections of this Code contain separate definitions sections intended primarily for use in connection with the relevant section or portion of the Code.
 - (6) All land development related terms not defined in this section shall be defined by the State Statutes (F.S.) or the Code of Federal Regulations (C.F.R.), or if not addressed by either, the latest edition of *A Planners Dictionary*. All other common words shall be defined by the latest edition of the Webster's Merriam Collegiate Dictionary.
 - (7) Determinations as to the meaning of a word or term shall be the responsibility of the City Manager, whose decision may be appealed as provided in Sec. 3.13.
 - (8) Where the sections of this chapter identify actions or responsibilities of other officials or boards, the action or responsibility is assigned by this Code to the City Manager, and the provision in question shall be so interpreted. Where there is a question as to whether the provision involves a procedure, or how the standard shall be administered, the City Manager will make the determination, which may be appealed pursuant to Sec. 3.13.

Sec. 2.2. – Definitions

- (a) *Scope.* Unless otherwise expressly stated, the following words and terms shall, for the purposes of this article, have the meanings shown in this section.
- (b) *Terms defined in the Florida Building Code.* Where terms are not defined in this article and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.
- (c) *Terms not defined.* Where terms are not defined in this article or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.
- (d) *(Words and terms defined.* The following words and phrases, as used in this Code, shall have the following meanings:
- 100-year flood elevation* means the flood elevation that has a one percent chance of being equaled or exceeded each year or as defined by the Federal Emergency Management Agency (FEMA).
- Abandon* shall mean any cessation of an existing use of land or of any structure thereon for a period greater than that specified by this Code, other than a cessation necessarily incident to probate, bankruptcy or mortgage foreclosure proceedings, or to the temporary absences of part-time residents.
- Access easement.* That portion of a lot or parcel used for vehicular ingress or egress as allowed pursuant to the rights granted by a recorded instrument in the Volusia County public records. In no case shall a street or right-of-way be construed to mean an access easement.
- Accessory dwelling unit (ADU)* shall mean a habitable unit ancillary or secondary to an existing single-family dwelling use that has a separate kitchen, bathroom, and sleeping area. The term ADU includes a separate detached dwelling unit on the same lot as the principal single-family dwelling; or a separate dwelling unit within, or attached to, the principal single-family dwelling, provided that the unit has a distinctly separate entrance from the main entrance of the principal single-family dwelling.

- (1) Interior refers to an accessory dwelling that is using an interior part of the primary dwelling
- (2) Detached refers to a structure on a residential lot that is separate from the primary dwelling yet subordinate to the primary unit.

Accessory structure shall mean a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation with the exception of accessory dwelling units as defined herein, and be designed to have minimal flood damage potential. Examples of accessory structures are swimming pools, detached garages, carports, storage sheds, pole barns, and perimeter fences and walls.

Accessory use shall mean a use customarily incidental and subordinate to the principal use or building and located on the same lot with the principal use or building.

Addition (to an existing building) an extension or increase in floor area, number of stories, or height of a building or structure, as this term is defined in the Florida Building Code.

Administrative approval, as used in F.S. 166.04151, shall mean approved by administrative official after input from the Development Review Committee in accordance with this Code and Comprehensive Plan.

Administrative rezoning shall mean and refer to a rezoning initiated by the City as permitted by this Code and State Statutes.

Adult bookstore shall mean any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock books, magazines, other periodicals, videos, discs, or other graphic media, and which offers, sells, provides, or rents for a fee, any sexually oriented material, as defined by F.S. 847.001.

Adult theater shall mean an enclosed building or an enclosed space within a building used for presenting either films, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults, or any business that features a person who engages in specific sexual activities for observation by a patron, and which restricts or purports to restrict admission to only adults, as defined by F.S. 847.001.

Affordable housing shall mean housing that meets the criteria for being affordable as prescribed in F.S. 420.0004.

Agricultural use shall mean the use of land in horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, beekeeping, pisciculture and all forms of farm products and farm production.

Alteration of a watercourse shall mean alterations made to the channels of rivers, stream, or drainage ways, usually to improve drainage, relocate the channel, or to increase its flood carrying capacity.

Alteration shall mean any construction or renovation to an existing structure other than repair or addition, as defined by the Florida Building Code.

Altered wetlands shall mean wetlands which have been substantially affected by man, but which continue to be dominated by wetland or transitional vegetation.

Alternative support structure shall mean structures other than communication towers, which may include, but are not limited to, buildings, water towers, light poles, power poles, telephone poles, and other essential public utility structures.

Animals shall mean and include, but is not limited to, both household pets and farm animals.

Antenna shall mean any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves.

Appeal shall mean a request for a review of the City Manager or their designated agent's interpretation of any provision of this Code or decision made pursuant to Sec. 3.13 of this Code.

Appeal (Floodplain). A request for a review of the Floodplain Administrator's interpretation of any provision of this article or a request for a variance.

Applicant shall mean any person applying for or who has been granted a development order and/or permit to proceed with a project, or an owner or owner's authorized agent who submits an application or project to the City.

Application shall mean and refer to an application or petition or proposal submitted to the City for review or approval of any permit required by this Code, the Code of Ordinances, State Statutes, or Federal regulations

Aquaculture shall mean cultivation of animal and plant life in a water environment.

Arcade shall mean a row of arches supported by columns or piers which is covered.

Area of special flood hazard shall mean the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This term is synonymous with the phrase "special flood hazard area." Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 1612.2.]

Architectural embellishments. Ornamentation, adornment with decorative elements, i.e., towers, turrets and rosettes.

Artificial drainage system shall mean any canal, ditch, culvert, dike, storm sewer or other manmade facility which tends to control the surface flow of water.

Artificial lighting shall mean any source of temporary, fixed or movable light emanating from a manmade device, including, but not limited to, incandescent mercury vapor, metal halide, or sodium lamps, spotlights, streetlights, construction security lights or lights which illuminate signs. This definition shall not include handheld or vehicular lighting.

As-built plans shall mean the amended final site plans specifying the locations, dimensions, elevations, capacities and capabilities of structures or facilities as they have been constructed.

ASCE 24. A standard titled Flood Resistant Design and Construction that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Assisted living facility shall mean any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, regardless of whether operated for profit, which through its ownership or management provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator, as defined by F.S. 429.02.

Automobile service station.

- (1) *Type A* shall mean any premises used for the servicing of motor vehicles, including engine tuneups and repair; wheel balancing, alignment, brake service; the retail sale of fuel, lubricants and other products necessary to the operation and maintenance of motor vehicles, and the installation of such products, plus the sale of refreshments, but excluding the rebuilding or reconditioning of engines, and body repair. Automobile, boat, motorcycle, mobile home and recreational vehicles sales not included.
- (2) *Type B* shall mean in addition to Type A uses, any repair, rebuilding or reconditioning of any motor vehicle. Automobile, boat, motorcycle, mobile home and recreational vehicle sales not included.

Bar shall mean premises devoted primarily to the retailing and drinking of malt, vinous or other alcoholic beverages, or any other premises where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable for consumption on the premises. The term "bar" shall include the terms "saloon," "tavern," "pub," "barroom," "cocktail lounge" and "cabaret."

Base flood shall mean the flood having a 1-percent chance of being equaled or exceeded in any given year, as defined in the Florida Building Code.

Base flood elevation (BFE), as defined in the Florida Building Code, means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

Basement shall mean a story that is not a story above grade plane, as defined by the Florida Building Code. This definition of "basement" does not apply to the provisions of Chapter 1612 for flood loads.

Basement (for flood loads) shall mean that portion of a building having its floor subgrade (below ground level) on all sides, as defined by the Florida Building Code. This definition of "basement" is limited in application to the provisions of Section 1612 of the Florida Building Code.

Bay. A part of a structure, as a building, that is marked off by vertical elements A bay window; a recess or opening in a wall; an extension of a building-wing.

Bed and breakfast inn shall mean a family home structure, with no more than 15 sleeping rooms, which has been modified to serve as a transient public lodging establishing, which provides the accommodation and meal services generally

offered by a bed and breakfast inn, and which is recognized as a bed and breakfast inn in the community in which it is situated or by the hospitality industry, as defined by F.S. 509.242.

Bicycle facilities shall mean a general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities, maps, all bikeways, and shared use of roadways not specifically designed for bicycle use.

Bikeways shall mean any road, path or way which in some manner is specifically designated as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

Blood banks and laboratories are premises that offer cash or any other form of compensation for drawing blood or plasma.

Block shall mean a group of lots existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name through which it may be identified.

Boathouse shall mean an accessory structure designed solely for the protection or storage of watercraft.

Bracket. A projection from a vertical surface providing support under cornices, balconies, window frames, etc. (Sometimes used to describe a metal fastener.)

Breakaway wall shall mean a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Breezeway shall mean a roofed, open-air passageway connecting two structures.

Buffer. A designated area between two uses deemed incompatible with each other, or along the perimeter of a natural feature to be protected from an incompatible use, or along the perimeter of that use, which will absorb or otherwise preclude such incompatibility by some combination of construction design, vegetation plantings, fences and/or maintenance practices which shall be permanently maintained.

Buildable area shall mean that portion of a lot excluding the front, rear, side or waterfront yards.

Building shall mean any structure used or intended for supporting or sheltering any use or occupancy, as defined by the Florida Building Code. Also see "Structure."

Building frontage shall mean each lineal foot, or major portion thereof, measured along the main entry side of a building. Where buildings form an "L" or "U," all main entry sides are measured.

Building height shall mean the vertical distance from the finished grade, along the front of the structure, to the highest point of a flat roof, or to the deck line of a mansard roof; or to the average distance between eaves and ridge for gable, hip and gambrel roofs; or, if no roof, to the highest point of any structure, or communication tower. For developments within the Nodes and Corridors and the SEMUA/TOD overlay districts, building height is measured to the bottom of the eave or the base of the parapet.

Building permit shall mean the permit required by section 105 of the state building code, as adopted by the City.

Building, principal, shall mean the building in which the principal use conducted on the lot is located.

Building setback line shall mean that line parallel to and of the same configuration as the lot line, and which is located behind the respective lot lines, the minimum distance required by the yard requirements of this Code, inside of which no structure shall be permitted, erected or placed. See "Yard" definition.

Bulkhead shall mean, as defined by F.A.C. 62B-41.002, a structure or vertical partition designed primarily to retain or prevent slumping of the upland soil mass. A bulkhead may also provide a level of protection against erosion by wave or current action.

Bulkhead line shall mean a governmentally ordered, legally described line, established pursuant to F.S. 253.1221, at the line of mean high water or ordinary high water.

Cafeteria shall mean premises where a variety of foods and beverages are prepared in advance and then selected by customers from a buffet for consumption on the premises.

Camper. See "Mobile recreational shelters and vehicles."

Campground. See "Recreational vehicle park."

Canopy, permanent, shall mean a permanent structure or architectural projection of rigid construction over which a covering is attached that provides weather protection, identity or decoration. A canopy is permitted to be structurally independent or supported by attachment to a building on one or more sides, as defined by the Florida Building Code.

Capacity enhancement agreement shall mean and refer to an agreement between the school board and an applicant providing for sufficient capacity to accommodate the additional students that will be generated by a development permit or Comprehensive Plan amendment that may also certify to the City that the school board will have sufficient capacity to accommodate the additional students generated by approval of the development permit or Comprehensive Plan amendment.

Carport shall mean an unenclosed structure or portion of a principal building, consisting of a roof and designed or used for the storage of motor vehicles owned or used by the occupants of the premises and/or their guest.

Carwash shall mean a structure containing specialized mechanical apparatus and facilities for washing motor vehicles.

Catering services shall mean premises where a variety of foods and beverages are primarily prepared in advance and then delivered to customers for consumption off the premises.

Church. See "House of worship."

City shall mean the City of DeBary, Florida.

City Council shall mean the elected members of the City Council.

City Arborist shall mean a person trained in the management and care of trees and forests designated by the City to administer the applicable provisions of this Code.

City Manager shall mean the chief administrative officer for the City.

City property shall mean land and appurtenances owned by the City.

City staff shall mean and refer to City employees, City consultants, those companies, governments, individuals and other entities under contract with the City to provide services to or for the City.

Classified shall mean a zoning classification of the zoning regulations.

Clearing shall mean the removal of any trees or brush from the land, including the removal of any wetland vegetation, vegetation in its natural state, brush and trees of any size, except as provided in chapter 8.

Clinics:

- (1) *Medical* shall mean outpatient premises where patients are admitted for examination and treatment by one or more persons practicing any form of the human healing arts, whether they are medical doctors, chiropractors, osteopaths, chiropodists, optometrists, or any similar professional licensed by the state. The term does not include a veterinarian clinic.
- (2) *Dental* shall mean outpatient premises where patients are admitted for examination and treatment by one or more persons practicing dentistry and licensed by the state.
- (3) *Veterinary* shall mean premises for the medical and surgical care of sick or injured animals, with limited overnight facilities.

Closure shall mean the termination of any regulated or prohibited nonresidential land use or activity covered by this Code.

Club, night, shall mean commercial premises where food, alcoholic beverages or other refreshments may be obtained for consumption on the premises and where floor shows or other forms of entertainment may be provided for the customers.

Club, private, shall mean nonprofit associations and organizations of a fraternal, social, leisure or recreational character.

Cluster subdivision shall mean a development in which building lots may be reduced in size and buildings sited closer together, usually in groups or clusters; provided that the total development density does not exceed that which could be constructed on the site under the future land use category. The additional land that remains undeveloped is then preserved as common open space.

Colonnade. A roofed structure supported by columns.

Commercial. As used in F.S. 166.04151(7), any use involving in part or in whole the sale of merchandise, materials or services, excluding properties that are used for medical or institutional purposes such as hospitals and clinics, and general offices.

Common open space shall mean a commonly owned area of land reserved and designed for the leisure or recreational use of the owners of a residential development and may include recreational facilities. Common open space can be referred to as public space when including recreation facilities, or in nonresidential uses, such features as plazas or courtyards.

Community residential home shall mean a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents, as defined by F.S. 419.001. Pursuant to F.S. 419.001(2), homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be allowed in single-family or multi-family zoning without approval by the local government, provided that such homes are not located within a radius of 1,000 feet of another existing such home with six or fewer residents or within a radius of 1,200 feet of another existing community residential home.

Comprehensive Plan shall mean the plan for growth and development of the City adopted by the City Council (Ordinance No. 02-10, adopted October 6, 2010, and effective December 8, 2010) pursuant to the requirements of chapter 163, part II, Florida Statutes (F.S. § 163.2511 et seq.).

Concurrency shall mean to ensure that public facilities and services needed to support development are available concurrent with the impacts of such developments.

Connectivity. The ability for pedestrians to flow between developments; the relationship of different building functions; the relationship of buildings to site amenities.

Consistency, Comprehensive Plan, shall mean this Code, or any provision thereof, is consistent with the Comprehensive Plan if it is not in conflict with and takes action in the direction of realizing the Comprehensive Plan's goals, objectives, or policies.

Construction and demolition debris shall mean discarded materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, including such debris from construction of structures at a site remote from the construction or demolition project site. The term includes rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project; clean cardboard, paper, plastic, wood, and metal scraps from a construction project; except as provided in F.S. § 403.707(13), unpainted, nontreated wood scraps from facilities manufacturing materials used for construction of structures or their components and unpainted, nontreated wood pallets, provided the wood scraps and pallets are separated from other solid waste where generated and the generator of such wood scraps or pallets implements reasonable practices of the generating industry to minimize the commingling of wood scraps or pallets with other solid waste; and de minimis amounts of other nonhazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the construction and demolition industries. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

Construction plans shall mean drawings, prepared by a state registered engineer or architect, showing how a specific structure, building or other improvement is to be constructed.

Construction, start of, shall mean the duly permitted permanent placing or erection of construction materials into position. When excavation or removal by an existing structure has commenced in preparation for new construction, such excavation or removal shall be deemed to be the start of construction; provided that work continues thereafter until the new construction is completed. The term includes built, constructed, reconstructed, moved upon or any physical operation on the premises required for building. The term shall also include the constructing, building, raising, assembling, relocating, placing, replacing, affixing, creating, structurally altering, painting, drawing, or in any other way creating or establishing a sign. It shall not include changing the copy or the customary maintenance or repair of a sign.

Context. Surroundings made up of the particular combination of elements that create specific habitat.

Convenience stores with gas sales, limited shall include convenience stores (excluding the sale of distilled spirits with a higher alcoholic content than malt beverages or fermented wines) with no more than eight (4) vehicular service positions per fuel dispenser island. Maximum of four (4) fuel dispenser islands.

Convenience stores with gas sales, are stores that have more than four (4) vehicular service positions per fuel dispenser island.

Cornice. An ornamental molding at the meeting of the roof and wall; usually consists of bed molding, soffit, fascia and crown molding.

Corridor. A lineal geographic system incorporating transportation and/or greenway trajectories.

County shall mean the County of Volusia, Florida.

Damage shall mean harm or loss resulting from injury to property that causes a loss of value or impairment of its usefulness.

Dark-sky compliance shall mean denoting or located in a place where the darkness of the night sky is relatively free of interference from artificial light.

Datum shall mean a reference surface used to ensure that all elevation records are properly related. Many communities have their own datum that was developed before there was a national standard. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

Day care center shall mean the premises where more than five persons, other than members of the immediate family occupying the premises, are kept under supervision. The term "day care center" includes day nurseries, kindergartens, day care services, day care center, day care agency, nursery school, play school, preschool or any other terms indicating that persons are under day care control; provided, however, this term does not include family day care homes as defined in F.S. § 402.302.

Day labor services are employment agencies offering day labor services and where workers congregate at the business location to receive daily assignments.

De minimis impact shall mean and refer to a development permit or Comprehensive Plan amendment that would, if approved, ultimately result in the equivalent of the net increase of less than ten (10) residential dwelling units. However, a development permit or Comprehensive Plan amendment for a property shall not be deemed to have a de minimis impact if, when the impact from a development permit or Comprehensive Plan amendment for such property is aggregated with a development permit or Comprehensive Plan amendment for adjacent property or other properties with a common or related development plan or common or related owner, the increase in the number of residential dwelling units equals or exceeds ten residential dwelling units.

Density shall mean the measure of the quantity of development activity in relation to the size of the site area within which the development occurs. Residential density is measured by the number of dwelling units per gross site area (in acres), not including dedicated rights-of-way, transmission and power line easements, lakes and areas defined as wetlands, and floodprone and preservation areas, and is also regulated by establishing a minimum lot size. In the determination of the number of residential dwelling units to be permitted on a specific parcel, a fractional unit shall not entitle the applicant to an additional unit. Nonresidential density (also referred to as intensity) is measured by floor area ratio (FAR), which is the ratio of the total gross floor area of buildings on a site to the gross area of the site itself.

For purposes of calculating residential density for development within the Southeast Mixed-Use Area (SEMUA) and the Southwest Mixed-Use Area (SWMUA) Future Land Use designations, land used for publicly dedicated or privately owned rights-of-way is not lessed out of the gross site area. Up to 75 percent of a Southeast Mixed-Use Area (SEMUA) and the Southwest Mixed-Use Area (SWMUA) Future Land Use development site's wetlands, lakes, flood-prone and preservation areas may be counted toward developable land (thus, not lessed out of the gross site area for density calculation) when the Development Review Committee determines that such areas are to be preserved, and adequately amenitized by making these natural features accessible for passive recreational use and commitments concerning such are identified in either a Planned Unit Development, Overall Development Plan, or a Preliminary Plat and Construction Plan.

Design flood. The flood associated with the greater of the following two areas, as defined in the Florida Building Code:

- (1) Area with a flood plain subject to a 1-percent or greater chance of flooding in any year; or

(2) Area designated as a flood hazard area on a community's flood hazard map, or otherwise legally designated.

Design flood elevation shall mean, as defined in the Florida Building Code, the elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where a depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet (610 mm).

Developer shall mean any person engaged in developing or improving a project or group of lots for use, occupancy or sale.

Development shall mean any man-made change to improved or unimproved real estate, construction, installation, reconstruction, addition, renovation, demolition, or removal of a structure, impervious surface, or drainage facility; clearing, scraping, grubbing, killing, or otherwise removing vegetation from a site; adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, drilling operations, mining, dredging, paving, filling or otherwise significantly disturbing the soil, mud, sand, or rock of a site; or any other change to real property; or storage of materials, tanks, temporary structures, or equipment.

Development agreement shall mean an agreement between the City and one or more parties directly involved in a development project, and which may articulate special provisions or limitations applicable to the subject development. See section 3.9 of this Code.

Development order shall mean any order granting, denying, or granting with conditions an application for a development permit, as defined by F.S. 163.3164.

Development permit shall mean any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance or any other official action of the City having the effect of permitting the development of land, as defined by F.S. 163.3164.

Development plan shall mean a document, including all attachments and explanatory and supporting materials, largely presented in the form of maps and diagrams, describing the character and extent of a proposed development project.

Development Review Committee shall mean the group of staff members responsible for reviewing development applications and making findings of consistency between the submittals and City development regulations.

Development review fee shall mean and refer to the combination of the flat fee and the review deposit to be paid by an applicant.

Discharge and discharge point shall mean the outflow of water from a project, site aquifer, drainage basin or facility.

Drainage easement shall mean land in which the public or the City has an easement devoted to, planned, proposed or required for use as a public drainage system.

Drainage system and natural drainage shall mean surface streams or swamps which convey water to natural points of discharge.

Dredging shall mean excavation, by any means, in surface water or wetlands, as delineated in F.S. 373.421(1). It also means the excavation, or creation, of a water body which is, or is to be, connected to surface waters or wetlands, as delineated in F.S. 373.421(1), directly or via an excavated water body or a series of water bodies, as defined by F.S. 373.403.

Driveway shall mean an area of land which provides vehicular access from a street to the off-street parking space of a premises.

Driveway apron shall mean a portion of a driveway which immediately abuts the public right-of-way or a private street.

Due public notice or public notice shall mean notice given prior to a public hearing as required by this Code or by applicable provisions of state law, including, but not limited to, F.S. 166.041.

Dwelling shall mean one or more rooms in a building forming a separate and independent housekeeping establishment, arranged, designed or intended to be used or occupied by one household, and having no enclosed space or cooking or sanitary facilities in common with any other dwelling unit with no ingress or egress through any other dwelling unit, and containing permanent provisions for sleeping facilities, sanitary facilities and not more than one kitchen.

Dwelling, attached, shall mean a dwelling attached to another dwelling's foundation, wall or roof.

Dwelling, detached, shall mean a dwelling entirely surrounded by open space and not attached to another dwelling's foundation, wall or roof.

Dwelling, mobile home, shall mean a structure, transportable in one or more sections, which, in the traveling mode, is eight (8) feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred (300) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such terms shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act, provided by Congress in the original 1974 Manufactured Housing Act. In 1979 the term "mobile home" was changed to "manufactured home." For purposes of this Code, the terms mobile home and manufactured home are synonymous. When assembled, manufactured homes built after 1976 contain no less than 320 square feet. They may be single or multi-sectioned units when installed. Their designation as personalty or realty will be determined by State law. When determined to be realty, most are eligible for conventional mortgage financing.

Dwelling, model, shall mean any new dwelling temporarily used by the building/developer for the purpose of on-site sales, construction or security of the type of dwelling he is constructing only in the development in which it is located.

Dwelling, modular, shall mean a dwelling fabricated in a manufacturing facility and bearing a seal certifying it is constructed to standards as adopted under the authority of F.S. § 553.355 et seq., and rules adopted by the State Department of Business and Professional Regulation under F.A.C. 61-41 et seq. A modular dwelling unit shall be deemed a Single Family dwelling and shall not be deemed a Mobile Home Dwelling.

Dwelling, multifamily, shall mean a building containing four or more dwelling units, attached by a common wall, with the number of families in residence not exceeding the number of dwelling units provided. The term includes apartments and condominiums and does not include duplexes, triplexes, or townhomes,

Dwelling, single-family, shall mean a detached dwelling unit, other than a mobile home, sharing no walls with another dwelling unit.

Dwelling, two-family, shall mean a building containing two dwelling units attached by a common party wall or firewall. The term "duplex" is synonymous.

Dwelling, three-family, shall mean a building containing three dwellings units attached by a common party wall or firewall. The term "triplex" is synonymous.

Efficiency unit shall mean a dwelling consisting of not more than one room in addition to kitchen and bath. It is synonymous with "studio unit."

Elevated building shall mean a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

Emergency repairs shall mean work necessary to protect and preserve life and property of inhabitants of the City.

Enclosed storage area shall mean an area that is surrounded on all sides by a continuously connected fence or wall except where it is necessary to provide for pedestrian or vehicle openings.

Encroachment shall mean the advance or infringement of uses.

Engineer shall mean a professional engineer registered by the state and qualified to provide engineering services applicable to land development and construction.

Environmentally sensitive lands shall mean lands and/or associated waters which provide ecologically important or vital resources, particularly those ecological communities which are locally or regionally rare or threatened, or which provide habitat for wildlife species which are officially listed as endangered, threatened, or of special concern (also referred to as "critical habitat"). Examples of environmentally sensitive lands include, but are not limited to: wetlands; upland fringes of wetlands and shorelines; hardwood hammocks; and areas designated for the purpose of conserving or protecting natural resources of environmental quality.

EPA shall mean the United States Environmental Protection Agency.

Erected. See "Construction, start of."

Erosion shall mean:

- (1) The wearing away of the land by running water, wind or other geological agents, including such processes as gravitational creep;
- (2) Detachment and movement of soil or rock fragments by water, wind or gravity.

Erosion and sedimentation control plan shall mean a plan for the control of erosion and sedimentation resulting from a land disturbing activity.

Essential utility services shall mean publicly owned or regulated utility distribution systems for gas, water, sewer, telephone, television, radio or electricity of 230 kilovolts or less, including poles, wires, mains, drains, sewers, pipes, lift stations, conduits, cable towers, digital loop carriers, and antennas 70 feet or less in height, and other similar equipment and accessories which are necessary for furnishing of service by such public utilities, but not including electric power plants, substations, water tanks, gas transfer stations, and water and sewage treatment plants, buildings, and municipal water supply wells.

Excavation shall mean the hollowing out, removal by digging or leveling of any land, dirt, sand, clay, soil, rock, solid minerals or other soil materials.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced before November 23, 1973. [Also defined in FBC, B, Section 1612.2.]

Existing construction shall mean for the purposes of floodplain management, structures for which "the start of construction" commenced before the date of the initial Flood Insurance Rate Map (FIRM). Existing construction means for the purposes of determining rates structures for which the "start of construction" commenced before the effective date of the first FIRM or before January 1, 1975, for FIRMs effective before that date. This term may also be referred to as "existing structures."

Existing manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date, (November 23, 1973, of the floodplain management regulations adopted by the community.

Expansion to an existing manufactured home park or subdivision shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Expression line shall mean a horizontal line the full length of a façade expressed by material change or by a continuous projection such as molding or cornice not less than 2 inches or greater than 1-foot depth. Expression lines delineate the transition between the floor levels, creating a clear visual division between upper and lower floors.

FAA shall mean The Federal Aviation Administration.

F.A.C. shall mean The Florida Administrative Code.

Facade shall mean that portion of any exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.

Family shall mean a household composed of one or more persons, as defined by F.A.C. 67-48.002

Family day care home shall mean, in accordance with F.S. § 402.302, an occupied residence in which childcare is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child care, shall be included in the overall capacity of the licensed home. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

- (1) A maximum of four children from birth to 12 months of age.
- (2) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.
- (3) A maximum of six preschool children if all are older than 12 months of age.

- (4) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

Farm animal, animal raised for subsistence or profit or kept for use such as cattle, sheep, pigs, ducks, goats and poultry.

FCC shall mean The Federal Communications Commission.

FEMA shall mean the Federal Emergency Management Agency. The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Fence shall mean a barrier, usually comprised of wooden or metal posts, rails or wire mesh, used as a boundary marker or means of protection or confinement.

Fenestration shall mean the arrangement of windows and doors on a facade.

Filling shall mean the deposition, by any means, of materials in surface waters or wetlands as delineated in F.S. 373.421(1), as defined by F.S. 373.403.

Final site plan shall mean the plan required by Sec. 3.23, in order to obtain a development order or permit which demonstrates the manner in which the developer shall conform with the requirements of this Code.

Final site plan, minor, shall mean the plan required by Sec. 3.24 which meets the definition of "Minor site improvement", in order to obtain a development order or permit which demonstrates the manner in which the developer shall conform with the requirements of this Code.

Financial institutions shall mean an establishment for the custody, loan, exchange or issue of money for extension of credit and for facilitating the transmission of funds. The terms "bank," "savings and loan," "loan company" and "credit union" are synonymous.

Findings of fact shall mean a determination by the City Council or Special Magistrate supported by competent substantial evidence in the record.

Finished grade shall mean the complete surface of lawns, walks or driveways brought to the grade shown on any approved building plans.

Fireworks sales shall mean the on-site wholesale or retail sale of any combustible or explosive composition or substance or combination of substances or, except as provided by State Statutes, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. The term includes blank cartridges and toy cannons in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, roman candles, dago bombs, and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance, as defined by F.S. 791.01(4)(a).

Pursuant to F.S. 791.01(4)(b), the term does not include sparklers approved by the Division of the State Fire Marshal of the Department of Financial Services pursuant to F.S. 791.013; toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper caps which contain less than twenty hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times.

Pursuant to F.S. 791.01(4)(c), the term also does not include the following novelties and trick noisemakers:

- (1) A snake or glow worm, which is a pressed pellet of not more than 10 grams of pyrotechnic composition that produces a large, snakelike ash which expands in length as the pellet burns and that does not contain mercuric thiocyanate;
- (2) A smoke device, which is a tube or sphere containing not more than 10 grams of pyrotechnic composition that, upon burning, produces white or colored smoke as the primary effect; and
- (3) A trick noisemaker, which is a device that produces a small report intended to surprise the user and which includes:
 - a. A party popper, which is a small plastic or paper device containing not more than 16 milligrams of explosive composition that is friction sensitive, which is ignited by pulling a string protruding from the device, and which expels a paper streamer and produces a small report;

- b. A booby trap, which is a small tube with a string protruding from both ends containing not more than 16 milligrams of explosive compound, which is ignited by pulling the ends of the string, and which produces a small report;
- c. A snapper, which is a small, paper-wrapped device containing not more than 4 milligrams of explosive composition coated on small bits of sand, and which, when dropped, explodes, producing a small report; A snapper may not contain more than 250 milligrams of total sand and explosive composition;
- d. A trick match, which is a kitchen or book match which is coated with not more than 16 milligrams of explosive or pyrotechnic composition and which, upon ignition, produces a small report or shower of sparks;
- e. A cigarette load, which is a small wooden peg that has been coated with not more than 16 milligrams of explosive composition and which produces, upon ignition of a cigarette containing one of the pegs, a small report; and
- f. An auto burglar alarm, which is a tube which contains not more than 10 grams of pyrotechnic composition that produces a loud whistle or smoke when ignited and which is ignited by use of a squib. A small quantity of explosive, not exceeding 50 milligrams, may also be used to produce a small report.

Fixture shall mean the device that holds, protects, and provides the optical system and power connections for a lamp.

Flag shall mean a piece of fabric of distinctive design, color or pattern that is used as a symbol of some country, state, county, city, political party, organization or other entity.

Flood or flooding shall mean a general and temporary condition of partial or complete inundation of normally dry land from, as defined by the Florida Building Code:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation of surface water runoff from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair, as defined by the Florida Building Code.

Flood hazard area. The greater of the following two areas, as defined by the Florida Building Code:

- (1) The area within a flood plain subject to a 1-percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on a community's flood hazard map, or otherwise legally designated.

Flood hazard boundary map (FHBM) shall mean the map issued by Federal Insurance Administrator of FEMA, delineating Zones A, M, and E within a community, as per C.F.R. Title 44, Part 64.

Flood insurance rate map (FIRM) shall mean an official map of a community on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community, as defined by the Florida Building Code.

Flood insurance study (FIS) shall mean the official report provided by FEMA containing the Flood Insurance Rate Map (FIRM), the Flood Boundary and Floodway Map (FBFM), the water surface elevation of the base flood and supporting technical data, as defined by the Florida Building Code.

Flood plain or flood-prone area shall mean any land area susceptible to being inundated by water from any source, as defined by C.F.R. Title 44, Part 59. See definition of "Flooding."

Floodplain administrator shall mean the individual appointed to administer and enforce the floodplain management regulations of the community.

Floodplain development permit or approval. An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this article.

Floodplain management shall mean the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations shall mean this Code and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power which control development in floodprone areas. This term describes Federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing shall mean the modification of individual structures and facilities, their sites, and their contents to protect against structural failure, to keep water out, or to reduce effects of water entry, as per C.F.R. Title 44, Part 9.

Floodway shall mean the channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, as defined by the Florida Building Code.

Floodway encroachment analysis. An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models accepted by the Federal Emergency Management Agency.

Floor shall mean the top surface of an enclosed area in a building (including basement, garage), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

Gross floor area shall mean, as defined by the Florida Building Code, the floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, ramps, closets, the thickness of interior walls, columns, or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the useable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

Floor area, net shall mean, as defined by the Florida Building Code the actual occupied area not including unoccupied accessory areas such as corridors, stairways, ramps, toilet rooms, mechanical rooms and closets

Floor area ratio (FAR) shall mean the floor area of a building or buildings on a lot divided by the lot area.

Florida Building Code. The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Florida friendly landscaping. Describes landscaping practices, which includes nine guiding principles that help to preserve Florida's natural resources and protect the environment as defined by F.S. 373.185 (www.swfwmd.state.fl.us/yards/ or www.floridayards.org/), as well as being maintained in accordance with this Code and the City's Code of Ordinances.

Frontage see "Frontage, Street" definition.

Frontage, building, shall mean the length of an exterior building wall along a street right-of-way.

Frontage, street, shall mean the length of the lot line of any one premises along the street right-of-way line on which the lot borders.

Frontage street facade shall mean that portion of the facade which is visible from any street. Only one street facade shall be designated as frontage street facade.

Full circulation parking lot shall mean a parking lot design which permits a car entering a parking lot to circulate in front of all parking stalls and restart the same movement again without using the public right-of-way.

Full cutoff. A luminaire light distribution where zero candela intensity occurs at or above an angle of 90 above nadir. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 10 (ten percent) at or above a vertical angle of 80 above nadir. This applies to all lateral angles around the luminaire.

Fully-shielded light fixture. A lighting fixture constructed in such a manner that the light source is not visible when viewed from the side and all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.

Functionally dependent use shall mean a use that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not include longterm storage, manufacture, sales, or service facilities.

Gallery shall mean a covered and pedestrian oriented space often along the ground-floor of a building or surrounding an open space.

Garage sales shall mean the sale of household goods and personal property of the occupant of the premises; providing that no more than two such sales are held during any calendar year and that such sales are limited to a duration of three days.

General office shall mean a premises on which the administrative, managerial services of a business, person, government, an architect, engineer, attorney, accountant and consultant services are carried out in a room, a series of rooms or in a building solely devoted to such use.

General retail uses include art galleries, art, dance, modeling and music schools and gymnastics, retail paints and wallpaper stores, retail sales and services, florist and gift shops, luggage shop, retail sales and services, pet grooming, pet stores, book and stationery stores, hardware stores, hobby and craft stores, jewelry stores, outdoor display of retail merchandise (refer to Chapter 4, confectioners, and ice cream shops (including preparation of products for sale on the premises), bakeries (including preparation of products for sale on the premises) - excluding sales or rental of automobiles, motorcycles, trucks, motor homes, or travel trailers, automobile driving schools, boat or mobile home sales and services.

Glazing. The panes or sheets of glass or other non-glass material made to be set in frames, as in windows or doors.

Golf course shall mean a relatively large premises designed and constructed to accommodate the sport of golf. The term is not intended to include independent driving ranges or miniature golf courses.

Grade (of a building) shall mean when the curb level has been established, grade is the main elevation of the curb level opposite walls located on or parallel with and within 15 feet of the right-of-way line. When the curb level has not been established or all walls of a building are more than 15 feet from street lines, grade means the average of the finished ground level at the center of all walls of a building.

Green space. A naturalistic, open space that is small and civic in nature and is surrounded by buildings. Greens feature informal planting, often around a sunny central lawn.

Green building. The practice of increasing the efficiency with which buildings and their sites use and harvest energy, water and materials through better siting, design, construction, operation, maintenance and removal, therefore reducing building impacts on human health and the environment.

Groundwater shall mean water beneath the surface of the ground, whether or not flowing through known and definite channels, as defined by F.S. 373.019.

Group home facility shall mean, as defined by F.S. 393.063, a residential facility licensed under F.S. Chapter 393 which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least 4 but not more than 15 residents.

Half street shall mean a street bordering one or more property lines of a tract of land in which the developer has dedicated part (or half) of the ultimate right-of-way width.

Hardscape shall mean any permanent nonliving site improvements, including but not limited to pavement, curbing, wheel stops, steps, walls, fences, fountains, sculpture, railings, lighting, irrigation fixtures, and other similar fixtures usually consisting of poured concrete, concrete pavers and/or brick.

Hardship shall mean, as related to variances from this Code, the exceptional hardship associated with the land that would result from a failure to grant the requested variance. The community requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Hazardous substances shall mean those materials specified in section 9.40 of this Code.

Hazardous waste transporter facility shall mean a premises used by a person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water. Said facility means any transportation-related complex, including loading docks, parking areas, or storage areas where shipments of hazardous waste are held during the normal course of transportation.

Height within one (1) mile, as used in F.S. 166.04151, shall mean one (1) mile as can be traveled by human beings along the public streets of the City within the normal permitted lanes of travel from the center point of the proposed development site and shall not mean a straight line distance as a bird might be able to travel.

Helipads shall mean a designated landing area used primarily for the operation and basing of rotorcraft.

Highest adjacent grade shall mean the highest natural elevation of the ground surface, prior to start of construction, next to the proposed walls of a structure.

Historic structure shall mean any structure that is:

- (1) Listed individually in the National Register of Historic Places, a listing maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on the state inventory of historic places, which has been approved by the Secretary of the Interior.
- (4) Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings.

Hobby breeder shall mean a use allowing for the shelter, breeding or training of dogs or cats belonging to the resident of the premises and which has been licensed as a hobby breeder by the county animal control board.

Hospital shall mean premises with overnight facilities providing medical or surgical care of sick or injured persons.

Hospital, animal, shall mean premises with overnight facilities for the medical or surgical care of sick or injured animals. It may also include a crematory and/or pet cemetery.

Hotel/motel shall mean premises in which sleeping accommodations are offered for rental primarily to transients. It is synonymous with "motel," "boatel," and "tourist homes or cabins."

House of worship shall mean premises used for worship and permitted customary accessory uses by an organization of religious believers.

Household moving center shall mean a business specializing exclusively in the rental of household moving trucks and utility trailers and in the sale and rental of other products and services directly related to do-it-yourself moving.

Hydrograph shall mean a graph of discharge versus time for a selected outfall point.

Hydrologic cycle shall mean the movement of water through the environment on, above and below the surface of the earth.

Hydroperiod shall mean a measure of the time (usually in days per year) that water is at or above the solid surface under normal hydrologic conditions.

Impervious surface area shall mean an area covered by a material which limits or impedes infiltration or percolation of water into the ground, such as concrete pavers and asphalt, etc. It is calculated by dividing the total area of all impervious surfaces by the total lot area.

Impervious surface ratio (ISR) shall mean the total area of all impervious surfaces divided by the total lot area.

Indirectly illuminating shall mean illumination as a result of the glowing elements, lamps, globes, or reflectors of an artificial light source which is not visible to a person who is in a standing position on the ground.

Industrial, medium shall mean an establishment whose principal purpose is the manufacturing, assembling, compounding, processing, packing, baling, repairing, storing or distribution of products made from previously prepared basic materials. Typical uses include bottling and distribution plants, cold storage and frozen food lockers, feed and seed processing and storage, and machinery and machine shops. Other uses include blood and/or plasma banks which offer compensation, industrial vocational schools, and outdoor storage (including vehicle storage) as a principal use.

Industrial, light shall mean an establishment whose principal purpose is the assembling, repairing, storing or distribution of products made from previously prepared basic materials. Typical activities include woodworking, welding and soldering, small engine repair, sign manufacturing, printing and publishing, and testing materials, equipment or products. Other facilities covered under this category may include building materials or equipment sales and storage, contractors' offices that include equipment storage, wholesale retail nurseries, plumbing supply, wholesale and distribution, and warehouses.

Intervisible shall mean mutually visible, or in sight, the one from the other, as stations.

Isolated wetlands shall mean wetlands that have no hydrological or vegetative connections with "waters of the state," as defined in F.S. § 403.031.

Joint use driveway. A driveway connecting two or more contiguous sites to the public/private street systems.

Junkyard shall mean premises where junk materials such as scrapped metal, rubber tires, glass, wood scraps, plastic, tools, equipment, fixtures, appliances, construction materials, automobile parts, discarded automobiles, and paper or similar materials are bought, sold, exchanged, stored, baled, packaged, packed, disassembled or handled. The term also includes automobile wrecking and salvage yard operations, and scrapping operations. This term may also include recycling collection centers.

Kennel shall mean premises other than hobby breeders, where five or more domesticated house pets over 180 days of age or five or more class II wildlife over 180 days of age, as listed in F.A.C. 68A-6.002, are harbored, whether for profit or for personal use.

Kitchen shall mean any room in a building which is used, intended, or designed to be used for cooking or preparation of food, containing an oven, stove, refrigerator, and sink.

Lamp shall mean the source of light within a luminaire.

Land shall mean the earth, water, air above, below or on the surface, and includes any vegetation, improvements or structures customarily regarded as land. Land is intended to refer to water, marsh or swamp as well as to the solid surface of the earth. Land may also be referred to as "gross land area" or "gross acre of land."

Landfill shall mean a solid waste land disposal area for which a permit, other than a general permit, is required by F.S. § 403.707 and which receives solid waste for disposal in or upon land. The term does not include a land-spreading site, an injection well, a surface impoundment, or a facility for the disposal of construction and demolition debris

Landscape and landscape area shall mean a planting area permanently devoted for non-vehicular use and maintained to the growing of shrubbery, grass, and other plant material or by the use of such materials as crushed stone, lava rock, or similar materials.

Landscape architect shall mean a professional landscape architect registered by the state and qualified to provide landscape design services applicable to land development.

Laundry and dry cleaning establishment shall mean a business where dry cleaning, laundering, cleaning or pressing of articles or goods of fabric is undertaken.

Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- *Letter of Map Amendment (LOMA).* An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area, as prescribed by C.F.R. Title 44, Part 70. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- *Letter of Map Revision (LOMR).* As defined by C.F.R. Title 44, Part 72, FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

- *Letter of Map Revision Based on Fill (LOMR-F)*. As defined by C.F.R. Title 44, Part 72, FEMA's comment on a proposed project that would, upon construction, result in a modification of the SFHA through the placement of fill outside the existing regulatory floodway
- *Conditional Letter of Map Revision (CLOMR)*. As defined by C.F.R. Title 44, Part 72, FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the Special Flood Hazard Area (SFHA).

Level of service shall mean an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility, as defined by F.S. 163.3164. Level of service shall indicate the capacity per unit of demand for each public facility.

Light fixture. The complete lighting assembly (including the lamp, housing, reflectors, lenses and shields), less the support assembly (pole or mounting bracket); a light fixture.

Liner building. A liner building is a specialized building, parallel to the street, which is designed to conceal an area such as a parking lot or loading dock. Liner buildings may include commercial, office or residential uses.

Live/work unit shall mean a dwelling unit used for both residential and non-residential use permitted in the zoning classification in which the unit is located.

Livestock shall mean grazing animals such as cattle, horses, sheep, swine, goats, other hoofed animals, ostriches, emus, and rheas which are raised for private use or commercial purposes, as defined by F.S. 585.01.

Lot shall mean a tract or parcel and means the least fractional part of subdivided lands having limited fixed boundaries and an assigned number, letter, or other name through which it may be identified, as defined by F.S. 177.031.

- (1) *Atypical lot* shall mean a lot within a subdivision where, as a result of subdivision design, the lot abuts a street at one end and any of the following at the opposite end: a waterway or body of water, either of which is 100 feet or more in width; a golf course fairway or green; or an open space which by itself, or when combined with other open space areas within the same subdivision, comprises at least 15 percent of the total land area in the subdivision, and in which an undivided interest is conveyed with each lot.
- (2) *Corner lot* shall mean a lot located at the intersection of two or more streets, or curved street, at an angle of less than 135 degrees.
- (3) *Flag lot* shall mean a lot that has access to the road provided along a long narrow strip of land which resembles a flag on a pole and does not meet the minimum lot width along a right-of-way.
- (4) *Interior lot* shall mean a lot bounded on at least two sides by other lots and which is not a corner lot. Interior lots are defined as lots with only one frontage on a street.
- (5) *Through lot* or *double frontage lot* shall mean an interior lot which has lot lines along two substantially parallel streets. Through lots are defined as lots other than corner lots with frontage on more than one street. Through lots abutting two streets may also be referred to as double-frontage lots.

Please see Appendix C for illustrations.

Lot coverage shall mean the percentage of the lot that may be covered by principal and accessory roofed/canopied structures and is calculated by dividing the total of building footprint area by the total lot area. Does not include parking or other paved surfaces.

Lot depth shall mean the horizontal distance for the midpoint of the front-lot line to the midpoint of the rear-lot line, or to the rear most point of the lot where there is no rear-lot line.

Lot line, front, shall mean the property line abutting any street right-of-way.

Lot line, rear, shall mean the property line most distant from and most nearly parallel to the front lot line, with the exception that, on corner lots, the property line most distant from and parallel to the front lot lines shall be considered side lot lines.

Lot line, side, shall mean any property line that is not a front or rear property line.

Lot lines shall mean the perimeter property lines around the lot.

Lot width shall mean the horizontal distance between the side lot lines measured along the front building setback line.

Lowest floor, as defined by the Florida Building Code, shall mean the lowest floor of the lowest enclosed area, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage, provided that such enclosure is not built so as to render the structure in violation of Section 1612 of the Florida Building Code.

Luminaire shall mean a complete unit that artificially produces and distributes light. An artificial light source, including fixture, ballast, mounting, and lamp.

Manufactured home, as defined by F.S. 679.1021, shall mean a structure, transportable in one or more sections, which is in the traveling mode, is eight (8) body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of F.S. 679.1021(1)(aaa) except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code. "Manufactured home" does not include a "recreational vehicle" or "park trailer."

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufacturing shall mean the mechanical, physical, or chemical transformation of materials, substances, or components into new products, as defined in the North American Industry Classification System (NAICS).

Marina shall mean a licensed commercial facility that provides secured public moorings or dry storage for vessels on a leased basis, as defined by F.S. 327.02. A commercial establishment authorized by a licensed vessel manufacturer as a dealership is considered a marina for nonjudicial purposes.

Market value shall mean the price at which a property between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As The term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value can be established by a qualified independent appraisal (other than a limited or curbside appraisal, or one based on income approach), actual cash value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Volusia County Property Appraiser.

Marquee shall mean a canopy or covered structure projecting from and supported by a building, when such canopy or covered structure extends beyond the building.

Mean high water shall mean the average height of the high waters over a 19-year period. For shorter periods of observation, "mean high water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value, as defined by F.S. 177.27.

Mean sea level shall mean a tidal datum constituting the arithmetic mean of the hourly water elevations observed over a 19-year cycle (the National Tidal Datum Epoch), as defined by F.A.C. 18-20.003.

Medical office shall mean outpatient premises where patients are admitted for examination and treatment by one or more persons practicing any form of the human healing arts, whether they are medical doctors, dentists, chiropractors, osteopaths, chiropodists, optometrists, or any similar professional licensed by the state. Does not include pain management clinics as defined herein.

Mezzanine shall mean a floor that is built between two main floors, but covering a specific area rather than extending over the entire floor space.

Micro-irrigation systems shall mean irrigation systems that efficiently irrigate plant materials with maximum distribution of water to the plant root zone at a rate consistent with the water requirements of the plants being irrigated and with minimal loss of water by evaporation by using specialized underground emitters or pipes and low trajectory spray heads.

Micro wireless facility. A small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

Minor site improvement shall mean an improvement to an existing developed site that:

- (1) Increases the existing FAR by no more than 10% or 1,000 square feet, whichever is greater;

- (2) Increases the existing ISR by no more 10% or 1,000 square feet, whichever is greater;
- (3) Does not increase the height of the existing structure(s);
- (4) May replace, add, or remove landscaping;
- (5) May replace, add, or remove signage;
- (6) May replace, add, or remove fencing; or
- (7) May modify up to 10% of the building façade.

Mitigation (wetlands) shall mean actions including, but not limited to, restoration, enhancement, or creation of wetlands, required to offset environmental impacts of permitted activities.

Mitigation (traffic) shall mean special actions, programs and procedures intended to reduce, redistribute, or modify the traffic impact on the street system and/or increase capacity to the street system by using professionally accepted standards and methods.

Mixed-use building. Multiple functions within the same building through superimposition or adjacency, or in multiple buildings within the same area by adjacency. This may include, but is not limited to, a combination of residential, commercial, light manufacturing, office, and/or civic land uses.

Mixed-use residential. As used in F.S. 166.04151(7)(a) and (f), shall mean a residential use combined with a permitted B-2 or B-4 use as set forth in this Code with no more than 65% of the total square footage of the structure for residential purposes. A mixed use residential building located within the B-2 zoning classification shall only permit B-2 uses, as set forth in Chapter 4, to be located on the ground floor of each building. A mixed-use residential building located within the B-4, B-5, B-6, B-7, or I-1 zoning classifications shall only permit B-4 commercial retail uses as set forth in Sec. 4.7, excluding drive-through uses or facilities to be located on ground floor.

Mobile food dispensing vehicle means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal, or as such vehicle may be from time to time defined in F.S. 509.102.

Mobile home dwelling shall mean a residential structure, transportable in one or more sections, which is 8 body feet or more in width, over 35 body feet in length with the hitch, built on an integral chassis, designed to be used as a dwelling when connected to the required utilities, and not originally sold as a recreational vehicle, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

Mobile home park shall mean a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.

Mobile home space or lot shall mean a lot described by a park owner pursuant to the requirements of s. 723.012, or in a disclosure statement pursuant to F.S. 723.013, as a lot intended for the placement of a mobile home

Mobile home subdivision shall mean a subdivision of mobile homes where individual lots are owned by owners and where a portion of the subdivision or the amenities exclusively serving the subdivision are retained by the subdivision developer.

Mobile recreational shelters and vehicles shall mean portable shelters and vehicles, designed for travel or recreational purposes, which are not more than 8½ feet wide. The term includes the following:

- (1) *Tent, tent camper or camping trailer* shall mean a portable shelter usually fabricated of canvas or other water-repellant and fire-resistant material. The shelter may be designed to collapse for independent storage or may be designed to fold out from a special trailer body towed behind a motor vehicle.
- (2) *Truck camper* shall mean a portable unit designed to be loaded onto, or affixed to, the bed or chassis of the truck and constructed to provide temporary living quarters for recreational, camping, or travel use.
- (3) *Travel trailer* shall mean a vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use. It has a body width of no more than 8½ feet and an overall body length of no more than 40 feet when factory-equipped for the road.

- (4) *Motor home* shall mean a vehicular unit which does not exceed 40 feet in length and the height and the width limitations provided in F.S. 316.515, is a self-propelled motor vehicle and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.
- (5) *Pickup cover* shall mean a portable enclosure placed on the bed of a pickup truck, usually lacking any self-containment features, and primarily providing simple sleeping arrangements.
- (6) *Private motor coach* shall mean a vehicular unit which does not exceed the length, width, and height limitations provided in F.S. 316.515(9), is built on a self-propelled bus type chassis having no fewer than three load-bearing axles, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.
- (7) *Fifth-wheel trailer* shall mean a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed 400 square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
- (8) *Recreational vehicle* shall mean a vehicle which is:
- a. Built on a single chassis;
 - b. Four hundred square feet or less when measured at the largest horizontal projection;
 - c. Designated to be self-propelled or permanently towable by a light-duty truck; and
 - d. Designated primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Mowing shall mean to cut grass, weeds, and other nonprotected vegetation which falls below a two-inch caliper with a machine designed to remove such material without disturbing the soil and plant roots.

National Geodetic Vertical Datum (NGVD) shall mean as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NAVD88 shall mean North American Vertical Datum of 1988.

New construction shall mean, for floodplain management purposes, any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management code, ordinance, or standard, based upon specific technical base flood elevation data that establishes the area of special flood hazard, December 31, 1974, per FEMA. The term also includes any subsequent improvements to such structures. For flood insurance rates, the term "new construction" shall mean structures for which the start of construction commenced on or after December 31, 1974 or after November 23, 1973, and includes any subsequent improvements to such structures, per FEMA.

New manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management code, ordinance or standard (on or after November 23, 1973.).

Nightclubs. See "Club, night."

Nonconforming Building or Structure shall mean any structure lawfully established prior to and existing on the effective date of this Code, or any amendment hereto, which does not conform to the requirements of this Code for the zoning district in which it is located, including any applicable overlay districts.

Nonconforming lots shall mean an area of land which either complied with or was exempt from the City subdivision regulations on the effective date of the ordinance from which this Code is derived, but which does not meet the minimum area, depth and/or width requirements of its zoning classifications.

Nonconforming Use shall mean any use lawfully existing at the time of adoption of this Code, or any subsequent amendment thereto, which does not conform to one or more provisions of this Code, including an existing use permissible as a special exception use but which has not been so specifically authorized.

Nursing home facility shall mean, as defined by F.S. 400.021, any facility which provides nursing services as defined in Part I of Chapter 464 of the Florida Statutes and which is licensed according to Part II of Chapter 400 of the same.

Off-street loading area or space shall mean an off-street loading area provided off the public right-of-way for the temporary parking of vehicles which pick up, deliver, load or unload goods, supplies and merchandise.

Off-street parking area or space shall mean a permanently located off-street space for the temporary parking of vehicles.

On-site internet or computer access. Establishments offering on-site internet or computer access, or phone card sales, the primary activity or business of which is the sale of internet, computer or phone access or time for compensation or value whether for profit or not.

Opaque wall. A wall that is not see-through, non-transparent.

Open space shall mean that portion of a project not used for buildings, street rights-of-way or off-street parking and loading areas or other impervious surfaces (not including recreational facilities). Open space is intended to perform one or all of the following purposes:

- (1) Protection of natural resources (uplands, wildlife habitats and groundwater recharge areas) and areas unsuitable for development due to natural conditions (wetlands, floodplain and poor soils);
- (2) Recreation; and
- (3) Enhancement of the urban environment (buffer areas, landscaped areas, plazas and courtyards).

Outdoor display of retail merchandise shall mean the display of merchandise or goods available for purchase consisting of a small sample of merchandise or decorative items placed outdoors adjacent to the responsible business. The outdoor display is intended to allow retailers to attract the public by offering a sample of the products available inside.

Outdoor sales shall mean retail sales from other than an approved store, shop, or similar building. The term "outdoor sales" shall not include garage sales, as defined in this section.

Outdoor storage shall mean the use of any lot for the outdoor storage of vehicles, goods, inventory, commodities or equipment. This term shall not include salvage or junk yards and does not include "Outdoor display."

Outside TOD Core. Properties between approximately one-fourth mile and one-half mile of the DeBary Commuter Rail Station.

Out-parcel shall mean a parcel of land or lot separated or separable from a development.

Outstanding Florida Waters (OFW) shall mean waters designated by the Environmental Regulation Commission as worthy of special protection because of their natural attributes as defined in F.A.C. 62-302.200.

Overlay District shall mean an area where certain additional requirements are superimposed upon a base zoning district or underlying district and where the requirements of the base or underlying district may or may not be altered.

Owner shall mean any person, group of persons, firm or firms, joint venture, corporation or corporations, or any other legal entity having legal title to the land sought to be developed under this Code. It also refers to an owner or group of owners of fee simple title to a particular lot, tract, or parcel of real property.

Owner occupied shall mean a dwelling occupied by the owner of record, holding a valid certificate of occupancy.

Owner's authorized agent shall mean and refer to an agent of the owner duly authorized to submit and process an application. If the applicant is not the property owner, a written authorization must accompany the application.

Package treatment plant shall mean small wastewater treatment systems which have a collection network, treatment plant, and disposal system. Package treatment plants are generally used to serve isolated development and are partially or completely preassembled by the manufacturer prior to shipment to the site of use.

Pain management clinic shall mean, as defined by F.S. 458.3265, any publicly or privately owned facility that advertises in any medium for any type of pain-management services; or where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain and is required to register with the Florida Department of Health.

Parapet shall mean that portion of the facade which extends above the roofline.

Parcel of land shall mean any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as a unit or which has been used or developed as a unit.

Park trailer shall mean, as defined by F.S. 320.01, a transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface of the exterior stud walls at the level of maximum dimensions, not including any bay window, does not exceed 400 square feet when constructed to ANSI A-119.5 standards, and 500 square feet when constructed to United States Department of Housing and Urban Development Standards. The length of a park trailer means the distance from the exterior to the front of the body (nearest to the drawbar and coupling mechanism) to the exterior of the rear of the body (at the opposite end of the body), including any protrusions.

Parking drive aisle shall mean the area immediately adjacent to the car parking stalls which permits maneuvering of the cars entering and leaving a parking stall, and which connects the parking stalls to the driveway.

Parking stall shall mean the space that is necessary to park a vehicle, excluding aisles and driveways.

Partial circulation parking lot shall mean a parking lot design which permits a vehicle entering a parking lot to circulate in front of all parking stalls without using the public right-of-way.

Pedestrian-oriented business or use. A business or use which is commonly accessed by pedestrians from the street sidewalk and has a high customer use rate.

Penthouse shall mean an enclosed, unoccupied rooftop structure used for sheltering mechanical and electrical equipment, tanks, elevators, and related machinery, and vertical shaft openings, as defined by the Florida Building Code.

Person shall mean any individual, group of persons, firm, corporation, association, or entity.

Person, aggrieved, shall mean one whose legal right is invaded by a decision complained of, or whose pecuniary interest is directly affected by a decision. The person's interest must be specific and personal, not common to all members of the community. When the decision affects any public recreation area, however, the phrase shall include any user of that area.

Pervious area shall mean an area maintained in its natural condition or covered by a material that permits infiltration or percolation of water into the ground.

Pet shall mean an animal that is kept by humans for companionship and enjoyment such as dogs, cats, fish, hamsters and birds but does not include horses, ponies, chickens, roosters, pigs or other livestock and farm animals.

Planned unit development (PUD) shall mean a special zoning district for a specific tract of land under unified ownership, to be planned and developed according to the development agreement and/or master development plan specified in this Code, as agreed upon between the City and the property owner.

Plant list shall mean the City's list of trees and vegetation identifying species and specifications approved for planting to comply with the City landscape requirements

Plat shall mean a map or delineated representation of the subdivision of lands in accordance with the requirements of F.S. Chapter 177.

Platted land shall mean any land which can be referenced to a plat.

Portable shelter shall mean a temporary movable device, consisting of a rigid plastic, fiberglass or metal frame supporting an attached tarpaulin weather barrier, which is capable of being easily assembled from a commercially available kit or bundle of prefabricated parts.

Potable water or potable water facilities shall mean water that is satisfactory for human consumption, dermal contact, culinary purposes, or dishwashing as approved by the Department of Health, including the County health department, as defined by F.S. 381.0062. The water meets the criteria of F.A.C. 62-550.

Potable water supply well shall mean a well used as a source of water for drinking, culinary, or domestic purposes, as defined by F.A.C. 62-610.200.

Premises shall mean a distinct unit or parcel of land and all buildings, structures, or other appurtenances thereof including the appurtenances thereon.

Primary containment shall mean the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous substance being contained.

Primary well field protection zone shall mean the land area immediately surrounding any potable water supply well and extending a radial distance of 200 feet.

Principal building/structure. A building in which the principal use of the lot is conducted.

Principal entrance. The place of ingress and egress facing the principal street.

Principal street. In this document, the principal street of a lot or site is the street with the highest priority/level of transit service that is adjacent to the lot or site.

Principal use shall mean the primary purpose or function served or provided.

Product-tight shall mean impervious to the hazardous substance which is or could be contained so as to prevent the seepage of the hazardous substance from the containment system. To be product-tight, the containment system shall be made of a material that is not subject to physical or chemical deterioration by the hazardous substance being contained.

Professional office shall mean an office where professional services are provided, excluding medical offices.

Project shall mean the particular structures and improvements proposed by the applicant on a particular land area which are part of a common plan of development and may include the subdivision of land. Any area of land that is planned, designed and developed in an integral and unified arrangement. It includes all structures, improvements and equipment of every kind, nature or description incident to the development.

Protective barrier shall mean conspicuously colored fences or like structures, constructed of sturdy materials that are at least four feet in height, which prevent or obstruct passage.

Prune shall mean to cut away, remove, cut off or cut back parts of a tree or plant for the purpose of promoting healthy growth and shape without damaging the plant.

Public improvements shall mean any sanitary sewer, storm sewer, drainage ditch, water main, roadway, parkway, bridge, sidewalk, pedestrian way, planting strip, or other facility for which the City or other governmental agency may ultimately assume the responsibility for maintenance and operation.

Public property shall mean all real and personal property, including leasehold rights owned by the federal, state or local governments, including all political subdivisions, authorities, or other entities to which the rights, powers and privileges of the federal, state and local government have been delegated.

Public safety and nuisance shall mean anything which is injurious to safety or health of the entire community or a neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Public schools Interlocal agreement shall mean and refer to an agreement entered into by the school board and the City that recognizes the school board's process for determining the availability of school capacity and the roles and responsibilities of the respective parties in determining and resolving school capacity issues and the process for creating capacity enhancement agreements, pursuant to F.S. 163.31777.

Public space. The area between the curb of the vehicular lanes and the front lot line. Elements of the public frontage include the type of curb, walk, planter, street tree and streetlight

Public use shall mean a use of any premises by a public body, board, council or authority, such as a municipal, county, state or federal government, or any agency or department thereof for a governmental or proprietary purpose.

Public utility shall mean, as defined by F.S. 366.02, every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state; but the term "public utility" does not include either a cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state; a municipality or any agency thereof; any dependent or independent special natural gas district; any natural gas transmission pipeline company making only sales or transportation delivery of natural gas at wholesale and to direct industrial consumers; any entity selling or arranging for sales of natural gas which neither owns nor operates natural gas transmission or distribution facilities within the state; or a person supplying liquefied petroleum gas, in either liquid or gaseous form, irrespective of the method of distribution or delivery, or owning or operating facilities beyond the outlet of a meter through which natural gas is supplied for compression and delivery into motor vehicle fuel tanks or other transportation containers, unless such person also supplies electricity or manufactured or natural gas.

Public utility uses and structures shall mean publicly owned or regulated electric power plants, substations, water tanks, gas transfer stations, water and sewage treatment plants and other buildings and uses not defined as "essential utility services."

Publicly owned parks and recreational facilities shall mean an area of land, often in a largely natural state, having facilities for rest, recreation or sports activities owned or managed by a municipal, county, state or federal government or any agency or department thereof for the benefit or enjoyment of the general public.

Quasi-judicial action shall mean a public hearing by the City Council, in accordance with City Resolution # 2015-21 where due public notice of the hearing has been performed and an opportunity to be heard and to present evidence is afforded to affected parties, and the decision of the City Council is based on competent substantial evidence present in the record.

Rebuttable presumption shall mean a presumption which may be rebutted by evidence.

Recharge shall mean a process, natural or artificial, by which water is added to the saturated zone of an aquifer, as defined by C.F.R. Title 40, Sec. 149.2.

Recovered wastewater (reclaimed water) shall mean water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility, as defined by F.S. 373.019.

Recreation, active/outdoor shall include private recreation areas designed for vigorous activities conducted outdoors such as, but not limited to, amusement parks, sports and athletic facilities (e.g. tennis, basketball, racquetball, driving ranges), miniature golf, go-cart tracks, water slides, and similar activities. The term shall not include golf courses or outdoor shooting ranges.

Recreation facilities, indoor shall include enclosed public or private facilities containing amusement, entertainment, and/or recreational activities, such as theaters, bowling alleys, coin operated amusement, pool halls, dance halls, exercise studios, physical fitness studios (gym), health spa, martial arts schools, and indoor sports facilities, such as tennis courts, handball courts, and swimming pools. The term shall not include indoor shooting ranges.

Recreation, passive A public or private recreation area designed for and suitable for light activity and relaxation, including, but not limited to, sitting areas, walking trails, picnic pavilions, bicycle trails, playgrounds, botanical gardens, bird sanctuaries, nature trails and similar activities.

Recreational facilities, private shall mean privately owned and operated facilities providing recreation and sport uses such as golf courses, country clubs, swim clubs, tennis clubs, and the like. Private recreational facilities are generally sustained through the sales of memberships, but may be open to the general public for a fee.

Recreational facilities, public shall mean publicly owned improvements or artificially installed accessories which facilitate the use of an area or a resource for recreation. Facilities are divided into two categories:

- (1) *Primary facilities* are those that are essential or extremely desirable for conducting a particular recreational activity, such as launching ramps for boating, trails for cycling, roads for access to areas, etc.;
- (2) *Secondary facilities* are those that are desirable as a further enhancement of the recreational experience but are still dispensable, such as outdoor grills for picnicking and camping, docks for boating, etc.

Redevelopment shall mean substantial alterations or additions to an existing structure or otherwise developed property affecting 50 percent or more of the market value.

Regulatory floodway shall mean the area regulated by federal, state or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed 1 foot as set by the National Flood Insurance Program), as defined by C.F.R. Title 44, Sec. 9.4.

Remedy a deficiency or violation shall mean to bring the regulation, procedure, structure or other development into compliance with state, Federal or local floodplain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Rent shall mean the periodic payments due the landlord from the tenant for occupancy under a rental agreement and any other payments due the landlord from the tenant as may be designated as rent in a written rental agreement, as defined by F.S. 83.43

Reservoir area shall mean an area not on the public right-of-way which is provided for the temporary use of vehicles waiting to enter or leave a vehicle-oriented service, or an off-street parking facility.

Residential activity shall mean any building or structure or portion thereof that is designed for or used as a permanent place of residence and any activity involving the use or occupancy. Residential activity shall include those customary and accessory residential activities associated with the principal permitted use of a lot for residential purposes as set out in the zoning regulations or other appropriate code of the City.

Residential construction shall mean construction of a single-family or two-family housing unit on an individual lot classified (zoned) pursuant to Chapter 4 of the City Land Development Code as amended, for single-family, two-family, or three-family, or more.

Restaurant shall mean premises where meals, including beverages or confections, are served to customers. Restaurants are classified as:

- (1) *Type A* shall mean buildings where the customers normally order from individual menus while seated at a table. The order is then normally served by a restaurant employee to the same table and there consumed by the customer. This group also includes cafeterias.
- (2) *Type A with outside service of alcoholic beverages* are restaurants that shall operate under a 4COPSRX license or shall meet similar limitations. Outside service and consumption of alcohol shall be limited to the same hours of operation as interior service and consumption. The establishment's license from Division of Alcoholic Beverages and Tobacco and Bureau of Licensing must include the outside area as part of the licensed premises.
- (3) *Type B* shall mean any building containing a restaurant other than Type A, including but not limited to fast food, drive-in, and drive-through restaurants.

Review fee shall mean and refer to the application review fee, as established by this Code and as established from time to time by resolution of the City Council, to be paid by an applicant at the time of the filing of an application in those circumstances where review costs are paid by the applicant under the provision of this Code.

Riding stables. Commercial and private equine boarding stables with riding arenas and equestrian facilities.

Right-of-way shall mean land in which the State, the Florida Department of Transportation, County, City owns the fee or has an easement devoted to or required for use as a transportation facility, as defined by F.S. 334.03, or is specifically dedicated to the public or private entity use.

Right-of-way line shall mean the line which bounds the right-of-way set aside for use as a street.

Riverine shall mean relating to, formed by, or resembling a river (including tributaries), stream, brook, etc., as defined by C.F.R. Title 44, Sec. 59.1.

Roofline shall mean the intersecting lines of a roof, formed at the junction of the roof with the walls of a building.

Boarding House shall mean a building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit, as defined by the Florida Building Code

School board shall mean and refer to the School Board of Volusia County, Florida, the governing body of county public schools.

Seasonal high ground water table (SHGWT) shall mean the zone of water saturated soil at the highest average depth during the wettest season of the year.

Seasonal high water level (SHWL) shall mean the elevation to which ground or surface water can be expected to rise during a normal wet season.

Seawall shall mean a manmade wall or encroachment, except, riprap, which is made to break the force of waves and to protect the shore from erosion, as defined by F.S. 373.403.

Secondary containment shall mean the level of product-tight containment external to and separate from the primary containment.

Secondary well field protection zone shall mean the land area surrounding the primary well field protection zone, and extending a radial distance of 800 feet from said primary well field protection zone.

Sediment shall mean solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water or gravity as a product of erosion.

Sediment basin shall mean a depression formed by the construction of a barrier or dam built at a suitable location to retain sediment and debris.

Self-storage facility shall mean an enclosed storage area containing individually rented or owned compartments or stalls for storage only.

Service, Personal shall mean uses such as barbershops, beauty shops, travel agencies, shoe repair shops, tailor shops, photographic studios, laundry and dry-cleaning establishments where non-flammable solvents are or can be used, locksmiths, and employment agencies.

Setback shall mean the minimum distance which must be maintained around the boundary of a lot and any structures; required yard area between the lot and the building line.

Shopping center shall mean premises containing a group of commercial establishments planned, developed and organized as a unit.

Shoulder shall mean the portion of a roadway contiguous with the traveled way for accommodation of stopped vehicles, emergency use, and lateral support of base and surface courses.

Sidewalk shall mean the improved portion of a right-of-way intended for pedestrian use.

Sidewalk clear zone. That portion of the sidewalk that is maintained free of any obstructions to allow for the passage of pedestrians

Sign shall mean any device or display consisting of lights, letters, numbers, symbols, pictures, illustrations, announcements, cut-outs, insignia, trade marks, or demonstrations, including all trim and borders, which is designed to advertise, inform, identify, or attract the attention of persons not on the premises on which the device or display is located, and which is visible from a public street.

- (1) Any person or animal stationed at or close to a business site for the purpose of attracting attention to the business by actions or attire is a sign.
- (2) Sign structure is that material which supports or is capable of supporting a sign, including decorative cover.
- (3) Advertising message is any copy, logos, or graphic elements of a sign which convey a message, identify a business, or describe products or services offered to the public.

Sign, abandoned shall mean any sign face or sign structure which advertises a business no longer conducted on the premises for over 60 days. In making the determination that a sign advertises a business no longer being conducted, the City Manager shall consider any or all of the following: the existence or absence of a current local business tax receipt, use of the premises, and relocation of the business.

Sign, add-on shall mean any additional sign added to a previously permitted and/or conforming sign.

Sign, advertising structure shall mean any structure installed for advertising purposes, with or without any advertisement display thereon, situated upon or attached to real property upon which any poster, bill, printing, painting, device or other advertisement of any kind whatsoever may be placed, posted, painted, tacked, nailed or otherwise fastened, affixed or displayed; provided, however, that said term shall not include buildings.

Sign, A-frame shall mean a movable sign not secure or attached to the ground as required by this Code.

Sign, animated shall mean a sign with physical or light action or motion or the appearance thereof, including lenticulation, wind actuated elements, rotating, oscillating, fluttering, flashing, or swinging signs, or banners (see "Sign, wind").

Sign, awning shall mean a structure supported entirely from exterior wall of a building and composed of non-rigid materials (except for the supporting framework) upon which a sign is indelibly drawn, painted, applied or printed.

Sign, background area shall mean the entire background area of a sign upon which copy could be placed. In computing the area of a sign background, only that face or faces which can be seen from any one direction at one time shall be counted (see "Copy area of sign").

Sign, banner shall mean a temporary on-site sign made of canvas or other flexible materials with or without a structural frame and attached to a building, canopy, pole or other structure placed for the purpose of attracting attention.

Sign, billboard shall mean any sign over 200 square feet in area, including any ground sign or sign mounted on a building or other structure.

Sign, blade shall mean a sign frame with a mounting bracket that is typically maintained perpendicular to the wall.

Sign, canopy shall mean a sign which is suspended from, attached to, printed on, supported from or forming a part of a canopy.

Sign, changeable copy shall mean a sign which has message characters that are not permanently attached to the sign, but which are attached to permit numerous changes of the message at the sign site without the repainting of any part of the sign or removal of any parts of the sign except the characters to be changed; also called a readerboard.

Sign copy shall mean the area of a sign that consists of letters, numbers, symbols, pictures, illustrations, announcements, insignia, trademarks or the like.

Sign copy area shall mean the surface area of a sign upon which its copy is displayed. (Refer to Sec. 11.8(a) to determine the method of calculating the copy area square footage.) (See "Background area of a sign".)

Sign, double-faced shall mean a sign with two copy areas which are parallel to each other and back to back with the maximum distance between the copy areas not to exceed two feet.

Sign, electric. See "Illuminated sign."

Sign, electronic message center shall mean a sign capable of displaying words and symbols that can be electronically or mechanically changed by remote or automatic means.

Sign, entrance shall mean an identification structure located at the main entrance to a City approved subdivision or development.

Sign, flashing. See "Animated sign."

Sign, frame effect shall mean a visual effect on an electronic message center applied to a single frame to transition from one message to the next.

Sign, freestanding. See "Ground sign."

Sign, governmental shall mean signs owned by any governmental entity.

Sign, ground shall mean a sign which is supported by one or more columns, uprights, or braces in or upon the ground and independent of any support from buildings or other structures.

Sign, identification shall mean one sign per business location not more than three square feet in area. The top of said sign shall be no more than eight feet above ground level.

Sign, illuminated shall mean a sign in which a source of light is used in order to make the message readable, including internally and externally lighted signs.

Sign, marquee shall mean any sign attached to the side or front or hung under a marquee, which sign shall not extend above the top of a marquee or shall not be mounted upon the top of the marquee.

Sign, monument shall mean a ground sign with an enclosed base equal to at least two-thirds of the horizontal width of the sign surface and not exceeding eight feet in overall height. The base of the sign must come in complete contact with the ground and there shall be no gaps between the base and the ground cover or sod.

Sign, nonconforming shall mean any sign which does not comply with the regulations of this Code, or subsequent amendments.

Sign, off-premises shall mean a third-party sign. It is a sign that advertises goods, products, services or facilities or directs persons to a different location from where the sign is installed.

Sign, on-premises, shall mean a sign erected by the owner or lessee of a premises that is incidental, subordinate and accessory to the permitted principal use or structure and located on the same premises of such principal use or structure. It is a sign identifying a business, person, activity, goods or services located on the premises where the sign is installed and maintained.

Sign, projecting, shall mean a sign erected or designed as an integral part of a building or structure that extends more than 12 inches and less than four feet beyond such building or structure.

Sign, revolving. See "Animated sign."

Sign, roof shall mean any outdoor advertising display sign, installed, constructed or maintained above the roofline of any building.

Sign, rotating. See "Animated sign."

Sign, sandwich. See "A-frame sign."

Sign, sidewalk. See "A-frame sign."

Sign, snipe shall mean any sign of any size, made of any material, including paper, cardboard, wood and metal, when such sign is tacked, nailed, posted, pasted, glued or otherwise installed on the ground, attached to a tree, utility pole, fence or similar objects. Also includes any sign installed without permission of the owner of the property upon which the sign is located.

Sign, swinging. See "Animated sign."

Sign, temporary, is a sign erected for a short duration. Refer to Sec. 11.7.

Sign, time and temperature shall mean a sign containing illuminated numerals flashing alternately to show the time and/or temperature.

Sign, vee-shaped shall mean any sign which has two faces which are not parallel, and which form an angle of 60 degrees or more.

Sign, wall shall mean any sign erected parallel to the facade or on the outside wall of any building and supported throughout its length by the wall of the building.

Sign, warning shall mean a sign conveying instructions or indicate the dangers of trespassing, swimming, animals, or similar hazards (e.g., "Danger—Bad Dog," "Keep Off").

Sign, wind shall mean any sign, pennant, ribbon, spinner, streamer, flag, feather, captive balloon, or other objects or materials fastened in such a manner as to move upon being subjected to pressure by wind and/or acting to draw attention to a business, product, service or activity.

Sign, window shall mean any sign installed upon the window of any building or structure, visible from the exterior of the building.

Skirting shall mean a type of wall constructed of approved fire- and weather-resistant material enclosing the area between the ground and floor of a mobile home dwelling.

Special exception shall mean a use requiring City Council approval and expressly so designated that would not be appropriate generally or without restriction throughout a particular zoning classification but that would not adversely affect the public health, safety, comfort, good order, appearance, convenience, morals or general welfare, if controlled in number, area, location, relation to the neighborhood, or in other appropriate respects. The term "conditional use" is synonymous.

Special flood hazard area shall mean the same as "area of special flood hazard."

Spill shall mean the spilling, leaking, pumping, pouring, emitting, or dumping of any hazardous waste or material which creates an emergency hazardous situation or is expected to create an emergency hazardous situation, as defined by F.S. 768.128.

Spot zoning shall mean a rezoning of a lot or parcel of land area smaller than 10 acres, to benefit an owner for a use incompatible with surrounding uses within a 300-foot radius. The rezoning is not for the purpose or effect of furthering the Comprehensive Plan.

Start of construction shall mean, for other than new construction or substantial improvements under the Coastal Barrier Resources Act P.L. 97-348, and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement or permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it

include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building.

State shall mean the State of Florida.

Storage system, as defined by F.S. 376.301, shall mean a stationary tank not covered under the provisions of Chapter 377 of the Florida Statutes, together with any onsite integral piping or dispensing system associated therewith, which is or has been used for the storage or supply of any petroleum product, pollutant, or hazardous substance as defined in F.S. 376.301, and which is registered with the Department of Environmental Protection under Chapter 376 of the Florida Statutes or any rule adopted pursuant to that Chapter.

Storefront zone. Portion of the front yard setback to allow for seating areas, planters/planting areas, bicycle racks, temporary sale/display of merchandise, moveable sandwich boards, postal/freight collection boxes, public art, etc.

Stormwater management system shall mean a system designed and constructed or implemented to control discharges that are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system, as defined by F.S. 403.031.

Stormwater retention facility shall mean a structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage for a given storm event.

Story shall mean, as defined by the Florida Building Code, that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

Street shall mean, as defined by F.S. 177.031 any access way such as a street, road, lane, highway, avenue, boulevard, alley, parkway, viaduct, circle, court, terrace, place, or cul-de-sac, and also includes all of the land lying between the right-of-way lines as delineated on a plat showing such streets, whether improved or unimproved, but shall not include those access ways such as easements and rights-of-way intended solely for limited utility purposes, such as for electric power lines, gas lines, telephone lines, water lines, drainage and sanitary sewers, and easements of ingress and egress.

- (1) Arterial road shall mean a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road, as defined by F.S. 334.03.
- (2) Urban *principal arterial street* shall mean, as defined by F.S. 334.03 a route which generally serves the major centers of activity of an urban area, the highest traffic volume corridors, and the longest trip purpose and carries a high proportion of the total urban area travel on a minimum of mileage. Such roads are integrated, both internally and between major rural connections.
- (3) Urban *minor arterial street* shall mean a route that generally interconnects with and augments an urban principal arterial road and provides service to trips of shorter length and a lower level of travel mobility. The term includes all arterials not classified as "principal" and contain facilities that place more emphasis on land access than the higher system, as defined by F.S. 334.03.
- (4) Collector road shall mean a route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serve as a linkage between land access and mobility needs, as defined by F.S. 334.03.
- (5) *Local street* shall mean a route providing service which is of relatively low average traffic volume, short average trip length or minimal through-traffic movements, and high land access for abutting property, as defined by F.S. 334.03.

Street, private shall mean, except as other provided in F.S. 316.003(64)(b), any privately owned and maintained way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Streetscape. The urban element that establishes the major part of the public realm. The streetscape is composed of thoroughfares (travel lanes for vehicles and bicycles, parking lanes for cars, and sidewalks or paths for pedestrians) as well as the visible private frontages (building facades and elevations, porches, yards, fences, awnings, etc.) and the amenities of the public frontages (street trees and plantings, benches, streetlights, etc.).

Street tree/furniture zone. That portion of the sidewalk located between the curb line and the sidewalk clear in which the following elements may be located.

- Street trees/grates, planting strips, raised planters;
- Street light standards;
- Street signs/pedestrian wayfinding signs;
- Transit stops;
- Postal/freight collection boxes;
- Parking meters;
- Utility boxes/public phones/fire protection;
- Seating;
- Trash receptacles;
- Bicycle racks.

Structure shall mean any object constructed or installed, the use of which requires a permanent location on the ground. The term includes, but is not limited to, buildings, gazebos, sheds, kiosks, pergolas, perimeter fences and walls, swimming pools, and signs, but does not include tents, vehicles or facilities associated with the provision of utilities such as drains, wells, transformers or light poles. For floodplain management purposes, the term "structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Subdivision shall mean, as defined by F.S. 177.031 the division of land in accordance with the requirements of F.S. 177, into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, and resubdivisions; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided.

Subdivision record shall mean an index card, computer file or other historic record under the maintenance and supervision of the GMD which indicates the status of recorded or unrecorded subdivisions based on reviews performed pursuant to previous exemptions or other criteria.

Substantial damage shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the value of the structure before the damage occurred, as determined by FEMA.

Substantial improvement, as defined by the Florida Building Code, shall mean any repair, reconstruction, rehabilitation, alteration, addition or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Surveyor shall mean a professional surveyor and mapper authorized to practice surveying and mapping under the provisions of Chapter 472 of the Florida Statutes, as defined by F.S. 177.503.

Telecommunication tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, amateur operator radio towers, cellular telephone towers, alternative tower structures, associated equipment structures, micro wireless facilities and the like.

- (1) *Monopole tower* shall mean a single, self-supporting communication tower of spin-cast concrete, concrete, steel or other similar materials containing no guy wires.
- (2) *Self-supporting lattice tower* shall mean a communication tower which is self-supporting and has three or more sides of open-framed supports.
- (3) *Guyed tower* shall mean a communication tower which is anchored with guy wires.

Tenant frontage shall mean each lineal foot, major portion thereof, measured along the main entry of a tenant space.

Terra-cotta. A hard, fired clay, reddish-brown in color when unglazed, used for architectural facings and ornaments, tile units and pottery.

The traveled way, as defined by FDOT, shall mean the portion of the roadway for the movement of vehicles, exclusive of shoulders and bicycle lanes. The traveled way includes travel lanes and auxiliary lanes.

Tinted glass shall mean any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent or less. Such transmittance is limited to the visible spectrum (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the glass.

To plat shall mean to divide or subdivide land into lots, blocks, parcels, tracts, sites or other divisions, however the same may be designated, and the recording of a plat in the office of the clerk of the circuit court of the county. The term "to plat" shall include replat.

Toe shall mean the lowest part of an embankment.

Townhouse shall mean a single-family dwelling unit not exceeding three stories in height constructed in a group of two or more attached units in which each unit extends from the foundation to roof and with a yard or public way on not less than two sides, as defined by the Florida Building Code.

Traffic impact analysis shall mean a study prepared by a qualified professional engineer, licensed to practice within the state, to determine the vehicular impact of the development upon the major road network system. This study includes: determination of trip generation; trip distribution; traffic assignment; capacity analysis; and improvements to the roadway system necessitated by the development, such as required new roads, additional lanes and signalization.

Trailer shall mean any vehicle without motive power designed to be coupled to or drawn by a motor vehicle and constructed so that some parts of its weight and that of its load rests upon or is carried by another vehicle.

Transit oriented development. Land use planning concept that promotes mix of residential, commercial, office and public uses, all within a comfortable walking distance to maximize access to public transportation, and incorporates features to encourage transit ridership. Examples of transit-supportive land uses include, but are not limited to the following: apartments; live-work units; townhouses; single-family houses; lodging; retail stores; restaurants; banks; private offices/professional businesses; government offices; medical centers; high schools and post-secondary institutions; child-care centers; libraries; recreational and cultural facilities; theatres; public spaces; and other facilities.

Transition line shall mean a horizontal line spanning the full width of a facade, expressed by a material change or by a continuous horizontal articulation such as a cornice or a balcony.

Trash shall mean the combination of yard trash and construction and demolition debris along with other debris such as paper, cardboard, cloth, glass, street sweepings, and other like matter.

Tree shall mean any woody self-supporting plant characterized by having a single trunk of at least six inches DBH or multistem trunk system with a well-developed crown at least 15 feet high as measured from its base.

Tree, caliper shall mean trunk diameter measurement of trees. The trunk caliper (trunk diameter) is measured 12 inches above the ground for trees. Since trunks are seldom round, the average of the largest diameter and that perpendicular to it is referred to as caliper. Any accurate device including a diameter tape may be used to measure caliper.

Tree, Canopy shall mean the branches, leaves, or other foliage from woody vegetation exceeding five (5) feet in height. The area of tree canopy may be measured by determining the area surrounding a tree located within the dripline.

Tree, clear trunk shall mean height measurement of the base portion of a tree trunk which is void of any foliage or branching measured from the natural soil line to the base of the lowest branches or fronds.

Tree, cross sectional area shall mean the area of the trunk of a tree taken 4½ feet above the base of the tree measured perpendicular to the axis of the trunk.

Tree, deteriorated shall mean a deceased tree, or degenerated or damaged to the point where death of the tree is imminent or to the point where the tree poses a significant hazard.

Tree, diameter at breast height (DBH) shall mean the trunk diameter of a tree measured 4½ feet above the average ground level at the base of the tree; provided, however, if the tree forks above 4½ feet above ground level, it is measured below the swell resulting from the double stem. Stems that fork below 4½ feet above ground level shall be considered separate trees.

Tree, drip line shall mean the peripheral limits of the horizontal crown of a tree spread vertically to the ground; provided, however, that the same shall not be less than a circle with a ten-foot radius measured from the center of the tree.

Tree, effectively destroy shall mean to cause, suffer, allow or permit any act which will cause a tree to die or go into a period of unnatural decline within a period of two years from the date of the act. Acts which may effectively destroy a tree include, but are not limited to, damage inflicted upon the root system by heavy machinery, excessive trimming, changing the natural grade above the root system or around the trunk, damage inflicted on the tree permitting infection or pest infestation, application of herbicides or other chemical agents or intentional fire damage to the tree permitting infection or pest infestation, the infliction of a trunk wound that is 50 percent or greater of the circumference of the trunk, or the removal of sufficient canopy to cause the unnatural decline of the tree.

Trees, historic shall mean a healthy cypress with a trunk DBH of 36 inches, a healthy live oak tree with a trunk DBH of 30 inches or a healthy magnolia tree with a trunk DBH of 24 inches.

Tree, protected shall mean any tree that is at least six (6) inches DBH and not identified as prohibited trees in this code.

Tree, prohibited shall mean any of the following tree species:

Common Name	Botanical Name
Australian Pine	Casuarina litorea
Australian Pine	Casuarina glauca
Brazilian Pepper	Schinus terebinthefolius
Camphor Tree	Cinnamonum camphora
Chinaberry	Melia azedarach
Citrus	Citrus species
Ear Pod Tree	Enterolobium cyclocarpa
Eucalyptus	Eucalyptus species
Punk Tree or Cajeput	Melaleuca quinquenervia
Silk Oak	Grevillea robusta
Woman's Tongue	Albizia lebbeck
Chinese Tallow Tree	Sapium Sebiferum
Carrot Wood	Cupanoipsis anacardioides
Ear Leaf Acacia	Acacia auriculiformis
Melaleuca	Melaleuca quinquenervia

Tree, removal shall mean to cut down, dig up, destroy, effectively destroy, or the unlicensed relocation of any tree.

Tree, replacement stock shall mean any immature tree having an overall height of at least six feet but does not include any prohibited tree. In addition, replacement stock shall have a minimum caliper of two inches.

Tree, shade shall mean tree species that customarily grow over 30 feet in height and have a minimum crown spread of 35 feet.

Tree, small shall mean tree species that customarily grow no more than 30 feet in height and have a maximum crown spread of 25 feet.

Tree, specimen shall mean the following species of trees with the minimum specified DBH are determined to be specimen trees in the City:

Common Name	Botanical Name	DBH
Turkey Oak	Quercus leavis	12 inches and larger
Other Oak species	Quercus spp.	18 inches and larger
Maple	Acer spp.	18 inches and larger
Sweet Gum	Liquidambar styraciflua	18 inches and larger
Hickory	Carya spp.	18 inches and larger
Elm	Ulmus spp.	18 inches and larger
Loblolly Bay	Gordonia lasianthus	12 inches and larger
Sweet Bay	Magnolia virginiana	12 inches and larger
Red Bay	Persea borbonia	12 inches and larger
Swamp Bay	Persea palustris	12 inches and larger
Sycamore	Platanus occidentalis	18 inches and larger
Magnolia	Magnolia grandiflora	12 inches and larger
Bald Cypress	Taxodium distichum	18 inches and larger
Red Cedar	Juniperus silicicola	12 inches and larger

Tree, understory shall mean a species of tree which normally grows to a mature height of fifteen (15) to thirty-nine (39) feet.

Trip shall mean a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end).

Trip generation shall mean the attraction or production of trips caused by a given type of land development.

Urban sprawl shall mean a development pattern characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses.

USGS shall mean United States Geological Survey.

Utilities shall include, but is not limited to, water systems, electrical power, sanitary sewer systems, gas distribution systems, storm drainage systems, telephone systems, and cable television systems.

Variance shall mean a grant of relief from the requirements of this Code, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this article or the Florida Building Code.

VCPS shall mean and refer to the Volusia County Public Schools, the county school district.

Vehicle shall mean any device used for transporting persons or property over streets or waterways, including, but not limited to, any automobile, motorcycle, truck, trailer, van, semi-trailer, tractor-trailer, commercial vehicle or trailer, recreational vehicle or trailer, and boat or boat trailer. drive

Vehicular use area shall mean any area of a development site used for circulation, parking, or display of any type of vehicle.

Vending operations shall mean, for purposes of this Code, any person, persons, firms, business association or corporation engaging in the sale, trade or other exchange of any materials or goods, including but not limited to fruits, vegetables, or other food stuffs, souvenirs, trinkets, art objects, etc., from a vehicle or temporary structure.

Vested right shall mean the right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan

Violation shall mean the failure of a structure or other development to be fully compliant with the requirements of this Code.

Visual light transmission (VLT) shall mean the amount of visible light, expressed as a percentage, that passes through a window.

Warehouse shall mean any premises where the principal use is the storage of merchandise, products, or materials in bulk, for a fee or charge, or for distribution to other establishments operated by the same business enterprise or establishment. A warehouse may include accessory wholesale sales, but shall not be deemed to include retail sales establishments, motor freight terminals, or the bulk storage of flammable, explosive, toxic, or noxious materials as a principal use.

Water body shall mean a lake, pond or other natural body of water of any type.

Water surface elevation shall mean the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse shall mean a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water dependent uses include bait and tackle sales, bars (ancillary to principal water-dependent use), boat and marine engine sales, service, and rentals, boat docks and moorings, boat fuel sales, boat storage, commercial fishing, pleasure or excursion boat dockage, marinas (refer to Sec. 6.36 for additional regulations), marine-oriented research facilities, retail sales or rental of boating, fishing, diving, water skiing, bathing supplies, equipment, and accessories.

Well shall mean, as defined by F.S. 373.303, any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, acquisition, development, or artificial recharge of groundwater but such term does not include any well for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying; for inserting media to dispose of oil brines or to repressure oil-bearing or natural gas-bearing formation; for storing petroleum, natural gas, or other products; or for temporary dewatering or subsurface formations for mining, quarrying, or construction purposes.

Well field shall mean an area of land which contains one or more potable water supply wells.

Wetland Buffer shall mean upland areas adjacent to wetlands which are necessary to protect the wetlands and wetland species from the detrimental impacts of development or alteration. The buffer shall include canopy, understory and groundcover which consists of preserved existing vegetation or planted native species.

Wetlands shall mean, as defined by F.S. 373.019, that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

Xeriscape shall mean a landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system. The principles of xeriscape include planning and design, appropriate choice of plants, soil analysis, the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.

Yard shall mean the area between the property line and the building line. Yards are referred to by their location on the lot:

- (1) *Front yard* shall mean the entire width of the yard abutting the street. On through lots abutting more than one public street, all yards abutting streets are front yards. On corner lots, both yards abutting streets shall be considered to be front yards.
- (2) *Side yard* shall mean the yard or yards bounded by the front and rear yards, or by the front yards on a through lot.
- (3) *Rear yard* shall mean the entire width of the yard abutting that lot line farthest from and generally parallel to the front yard. On corner lots, other yards which are not front yards shall be side yards.
- (4) *Waterfront yard* shall mean the yard abutting a natural or artificial water body (lake or pond) larger than 5,000 square feet, or a watercourse (stream or creek) greater than ten feet in width.

Please see Appendix C for illustrations.

Yard trash shall mean vegetative matter resulting from landscaping maintenance or land clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and stumps.

Zoning Map (Official) shall mean a graphic illustration of zoning boundaries and classifications drawn and approved as part of the records of the City.

(Ord. No. 11-99, § 2, 11-3-1999; Ord. No. 11-00, § 2, 9-6-2000; Ord. No. 08-07, 3-7-2007; Ord. No. 06-08, § I, 5-7-2008; Ord. No. 02-12, § 2(Exh. A), 9-5-2012; [Ord. No. 07-13, § 2\(Exh. A\), 8-7-2013](#)) (Ord. No. [01-14](#), § 2, 2-5-2014) (Ord. No. 13-10, § 2(Exh. A), 12-29-2010)

Sec. 2.3. - Abbreviations.

AASHTO	The American Association of State Highway and Transportation Officials.
ANSI	American National Standards Institute
ASTM	American Society for Testing and Materials
C.F.R.	Code of Federal Regulations
CPS	Conceptual Site Plan
CDE	City Development Engineer
DRC	Development Review Committee
EMD	Environmental Management District
F.A.C.	Florida Administrative Code
FBC	Florida Building Code
FDOT	Florida Department of Transportation
FPR	Final Plat
F.S.	Florida Statutes
FSP	Final Site Plan
GMD	Growth Management Director
LDC	City of DeBary Land Development Code.
ODP	Overall Development Plan
PPR	Preliminary Plat and Construction Plan
PUD	Planned Unit Development
SJRWMD	St. Johns River Water Management District

TOD	Transit Oriented Development
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Sec. 2.4. - List of reference publications, latest editions.

Following is a list of the latest editions of reference publications:

- (1) Highway Capacity Manual, Transportation Research Board.
- (2) "County of Volusia Soil Survey" - Soil survey of Volusia County, Florida, United States Department of Agriculture, Soil Conservation Service.
- (3) ITE Trip Generation Manual.
- (4) "FDOT Minimum Standards for Streets and Highways" - Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, State of Florida, Developed by the state department of transportation in accordance with F.S. § 335.075, (herein referred to as the "Green Book").
- (5) "AASHTO Geometric Design of Highways and Streets" - A Policy of Geometric Design of Highways and Streets, by the American Association of State Highway and Transportation Officials.
- (6) "FDOT Standard Specifications for Road and Bridge Construction" - Florida Department of Transportation Standard Specifications for Road and Bridge Construction.
- (7) "USDOT Manual on Uniform Traffic Control Devices" - Manual on Uniform Traffic Control Devices for Streets and Highways, United States Department of Transportation.
- (8) "FDOT Utility Accommodation Guide" - Utility Accommodation Guide, State of Florida Department of Transportation.
- (9) "FDOT Roadway and Traffic Design Standards" - State of Florida Department of Transportation.
(Ord. No. 96-32, § I, 12-19-1996)

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CHAPTER 3 - ADMINISTRATION AND PROCEDURES

Division 1. DEVELOPMENT PROCEDURES AND REQUIREMENTS

Sec. 3.1. General provisions.

- (a) Purpose. The purpose of this Code is to establish standards, procedures and minimum requirements for the issuance of all development orders and development permits as required by this Code and to regulate and control the platting and development of land within the City limits, except as otherwise specifically set forth herein; provided, however, it is not the purpose of this Code to regulate any bona fide agricultural production, including, but not limited to, horticulture, citrus, dairy, livestock, poultry, forestry or vegetables.
- (b) Violations and penalties. If it is determined by the City Manager that any person is violating any provision of this Code, the City Manager shall notify that person, in writing, indicating the nature of the violation and ordering any action necessary to correct it. The order may include, but not be limited to, a stop work order. Any violation of this Code may be referred to the City **Special Magistrate**. Any person found guilty of a violation of any of the provisions of this Code, or any lawful order of the City Council, or City Manager, shall be punished in accordance with F.S. § 162.22, or any amendments thereto, with a fine not to exceed \$500. Notwithstanding any other provisions of this Code, a violation of this Code may be abated by any manner as provided by law. Each day the violation continues shall be deemed a separate offense.
- (c) Injunctive relief. In addition to any penalty provided by law for the violation of any of the provisions of this Code, the City Council may bring suit in the appropriate circuit court to enjoin, restrain or

otherwise prevent the violation of any of the provisions of this Code in any manner, as provided by law.

(d) *Fee requirements.* Reasonable fees to offset the costs of administration of this Code shall be set by resolution of the City Council. All fees must be paid at the time set out in said resolution.

(e)–(n) Reserved.

(Ord. No. 21-07, § 3, 9-5-2007)

Sec. 3.2. Administration.

(a) *City Council.* The City Council is the governing body of the City, established and operating in accordance with law. The City Council shall have the following duties and responsibilities under this Code:

(1) The City Council shall serve as the Local Planning Agency (LPA) for all purposes and as provided in F.S. 163, pt. II (F.S. § 163.2511 et seq.), and shall perform all duties and comply with the requirements established therein, including responsibility for review of the Land Development Code for consistency with the adopted Comprehensive Plan. The LPA shall include a nonvoting school board representative member for certain comprehensive plan amendments and rezonings as provided by and in accordance with Florida law.

(2) The City Council shall review the Land Development Code and shall review applications for land development orders where such review is required by this Code.

(3) The City Council shall hear and consider requests for variances from and shall hear appeals concerning the standards of this Code. All decisions of the City Council shall be consistent with the Comprehensive Plan.

(4) The City Council shall make all interpretations of the Comprehensive Plan, including determinations that development orders are consistent with the adopted plan. The City Council may provide for delegation of such interpretations to the City Manager and by the City Manager to another party, subject to appeal of interpretation to the City Council.

(5) The City Council shall hear and consider requests for special exceptions, as provided herein.

(6) The City Council shall hear and consider requests for change in zoning and approval of development agreements (including development agreements under PUD regulations).

(7) Action of the City Council shall be by vote of the majority of members present.

(b) *City Manager.* The City Manager is the official employed by the City Council to be responsible for the day-to-day operation of the City. The City Manager shall have the following duties and responsibilities under this Code:

(1) The City Manager shall be responsible for the administration and enforcement of this Code. The City Manager may designate other City officers, employees, or agents to perform administrative functions, make determinations, and enforce various provisions. Designation need not be in writing and may be inferred.

(2) The City Manager shall prepare and present to the City Council reports on actions to be taken by the City Council, including appeals and requests for rezoning or development plan approval, and may present information items and request direction from the City Council for items where City Council approval is not otherwise required.

(3) The City Manager may adopt procedures, and forms for the implementation and enforcement of this Code. Where adopted, such procedures shall be used by City staff, landowners, and developers in the application for, review, and issuance of development orders and development

permits, but deviations from such policies or procedures shall not be a basis for invalidation of any development order, development permit, or determination, provided all requirements of this Code have been met.

(Ord. No. 01-99, § 1(104), 11-3-1999; Ord. No. 04-15, § II, 12-2-2015)

Sec. 3.3. Development Review Committee.

(a) Purpose. The purpose of this section is to set out the various administrative procedures of this Code and to provide for the establishment of the Development Review Committee.

(b) Development Review Committee.

(1) Established. There is hereby established a Development Review Committee (DRC).

(2) Membership. Membership of the Development Review Committee shall include the following, or their designated representative:

a. The Growth Management Director (GMD), who shall act as chairman;

b. Four additional members who shall be appointed by the City Manager.

County, local, state or federal agencies may be consulted by the Development Review Committee for advice or recommendations on any matter or application being considered by the Development Review Committee.

(3) Duties and responsibilities. The duties and responsibilities of the Development Review Committee shall include:

a. Reviewing all applications under this Code to:

i. Delineate areas of noncompliance with City development requirements; and

ii. Define steps necessary to bring applications into compliance with City development requirements.

b. Reviewing applications for development orders, or providing recommendations for development orders when such matters are decided by the City Council pursuant to this Code.

c. Providing a recommendation to the City Council for amendments to the Zoning Map.

d. Providing a recommendation to the City Council for amendments to the Comprehensive Plan's Future Land Use Map.

e. -All DRC applications shall have a ten-day (10) review period.

f. Performing such additional duties as the City Manager may, from time to time, assign.

(4) Meetings. The Development Review Committee shall meet at least twice per calendar month at such place as determined by the Development Review Committee. A schedule of the meeting times and places shall be adopted annually by the Development Review Committee. An agenda shall be prepared and distributed to each member and to the applicant at least five working days prior to each meeting. All applicants having requests to be reviewed by the Development Review Committee shall be invited to attend and participate in the meeting. Such records of the proceedings of the Development Review Committee meetings as required by law shall be kept.

(5) Responsibilities of the Growth Management Department:

a. Being a central intake point for applications;

- b. Reviewing applications for completeness;
 - c. Providing liaisons between applicants and the DRC;
 - d. Preparing and distributing agendas and reports for meetings of the DRC and the City Council;
 - e. Taking and preparing the minutes of all DRC meetings;
 - f. Comparing final construction plans and final plats with the approved development order to ensure consistency with one another;
 - g. Ensuring all issued development orders and development permits follow the goals, objectives, and policies of the City's Comprehensive Plan; and
 - h. Performing such other functions as the City Manager may, from time to time, assign.
- (6) Duties and responsibilities of the GMD. Duties and responsibilities of the GMD shall include:
- a. Coordinating application review procedures;
 - b. Issuing concurrency certificates of capacity;
 - c. Administration and management of the department;
 - d. Issuing development orders and development permits in compliance with the requirements and procedures of this ordinance; and
 - e. Ensuring that final construction plans and final plats are consistent with the approved development order.

Sec. 3.4. Development Review Procedures

All applications and supporting information required by this Code shall be filed with the GMD. All required application fees, as set by resolution of the City Council, shall be paid prior to acceptance of the application. Except as otherwise provided in this Code, the following procedures shall govern the review of such applications:

- (a) *Completeness of application.* The GMD shall review the application to determine its completeness. Within three (3) working days after receipt, he or she shall either accept the application if it is complete and forward to the applicant a notice of acceptance, or reject the application if it is incomplete and forward to the applicant a notice of incompleteness specifying the data missing from the application received.
 - (1) If neither a notice of acceptance nor incompleteness is sent, the application shall be deemed accepted for purposes of beginning the time limits of this division on the fourth working day after the filing of the application.
 - (2) If a notice of incompleteness is sent, the applicant shall resubmit the application with the additional data required. Upon receipt, the GMD shall review the resubmittal application in the manner provided in this subsection for the original application.
- (b) *Distribution of accepted application.* Following acceptance of an application, the GMD shall forward a copy of the application to all review agencies and to any state or federal agency deemed by the GMD to be a concerned agency for the review process.
- (c) *Review responsibilities.* Each member of the City review agency shall prepare a report which sets out, in writing, their comments specifying the exact references to the Code or other regulation being commented on and recommendations regarding the application and shall forward such report to the GMD at or before the meeting of the Development Review Committee held in accordance with this division. The GMD may waive one or more agency reviews, in whole or in part, under this section

upon his or her determination that such a review has already been made regarding the same land and no change in standards or circumstances has occurred which necessitates further review.

- (d) Review. Applications shall be reviewed by the Development Review Committee and shall be discussed at a meeting held in accordance with the requirements of Sec 3.3.
- (e) Application revision. An application may be revised by the applicant after it has been reviewed by the Development Review Committee. Any application so revised must include a revision date on the plans. If any portion of the review process must be repeated to accommodate the revised application, the time limits prescribed in this division shall be extended but not to exceed 20 working days from the date that the revision has been received.
- (f) Development order review and final action.
- (1) Within 60 working days from the acceptance of an application or revised application, the Development Review Committee shall make one of the following determinations:
- a. That the application or revised application is in compliance with the requirements of this Code, and shall approve, or recommend approval of the application;
 - b. That the application or revised application is not fully in compliance with the requirements of this Code, stating those conditions which they find are necessary to ensure compliance with this Code, and shall approve, or recommend approval of the application subject to those conditions being met; or
 - c. That the application or revised application is not in compliance with the requirements of this Code, and shall deny, or recommend denial of the application, stating the basis for such denial, or may continue consideration of and final action on the application pending submittal of a revised application.
 - d. This 60-day period shall be tolled upon submittal of comments to the applicant until the applicant has resubmitted and a notice of acceptance issued pursuant to subsection (a) under this Section.
- (2) An applicant may appeal the Development Review Committee's denial pursuant to Sec. 3.13 and request to have the application considered by City Council.
- (3) Valid period and issuance of development orders.
- a. The valid period of any development order shall begin on the date of issuance by the City Manager and shall remain valid for a period of 360 days from the date of issuance.
 - b. Development orders shall be issued by the City Manager within five working days after being notified of the actions of the City Council, the Development Review Committee, provided all applicable outstanding conditions have been met; provided all conditions of approval, if any, have been resolved and that the approved concurrency certificate of capacity, if required, can be or has been issued.
- (4) Effect of development order.
- a. If construction of a site development has commenced pursuant to a valid building permit during the valid period of a final site plan development order, construction may be completed in accordance with the approved development order as long as the building permit remains valid.
 - b. If construction of the required improvements in a subdivision development has commenced during the valid period of a preliminary plat development order, the improvements may be completed in accordance with the approved development order beyond the valid period of

that development order only if the subdivision final plat development order has been approved by the City Council. Construction of the required improvements in a subdivision shall be completed or shall be guaranteed for completion pursuant to division 5 of this article prior to recording the final plat.

c. A final plat shall be deemed approved only after the final plat is recorded and upon issuance shall remain valid until the subdivision or any part thereof is abandoned in accordance with the laws of the City and the state.

d. During the period of 90 days before and 90 days after the expiration of any development order, the developer may request an extension of that valid period from the City Council. Such request shall be submitted to the GMD. The City Council may approve an extension of that valid period for a period of time not to exceed 360 days and may attach such conditions as they determine appropriate.

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. 03-16, Exh. A, 1-20-2016). -1-4-

Sec. 3.5. Development and use of land.

(a) (a) —*Development permit and development order.* No development shall be undertaken within the City without approval and issuance of a development permit or development order pursuant to the provisions of this Code and of other relevant codes and regulations (such as the Building Code). Where indicated by these regulations, a development order approved by the City Manager or City Council shall be required prior to issuance of a development permit.

(b) (b) —*Development plan.* For developments requiring a development plan or site plan under this Land Development Code, and for development situations specifically identified in this Code, a development plan shall be approved before a development permit may be issued.

(c) (c) —*Certificate of occupancy.*

(1) (1) —No land, water, or building, or any part thereof, shall be occupied or used until a certificate of occupancy is issued finding the use in conformity with this Code. A certificate of occupancy must comply with the terms and provisions of the approved development order and development permit, as well as with the provisions of these regulations.

(2) (2) —No existing use of land, water, or building, or any part thereof, shall be changed to a different use classification as established in the state building code, until a certificate of occupancy is issued finding that the use as changed is in conformity with this Code.

(3) (3) —Following a written request, a final inspection shall be made and a certificate of occupancy issued if it is found that the requirements have been met. If the certificate of occupancy is denied, a written statement shall be provided to the applicant with the reasons for refusal, citing the applicable regulations and remedy which may achieve compliance.

(4) (4) —Where no health or safety hazard is created, a conditional certificate of occupancy may be issued prior to completion of all improvements, pursuant to Section 111 of the Florida Building Code. The conditions may include the submittal of plans and specifications for the required improvements and posting of security to ensure completion. The period for completion shall be provided in the certificate of occupancy, and shall be no more than 60 days. If the improvements are not completed within the time provided, the certificate of occupancy shall be void, and appropriate enforcement action shall be taken by the City Manager.

(d) (d) —*Issuance of development permits while amendment pending.* No development permit or development order shall be issued where an amendment to this Code is pending before the City

Council, which amendment, if adopted, would make nonconforming the development authorized by the development order or permit.

(e) (e)—*Agreement to specific provisions.* The City may enter into an agreement with a developer to establish specific provisions governing the use and development of a particular piece of land. Such agreement shall be subject to applicable provisions of law and shall comply with the following:

(1) (4)—No provision may be included which is contrary to the adopted Comprehensive Plan or which would be tantamount to a rezoning of land.

(2) (2)—Except where expressly provided in the agreement, no agreement shall have a term of more than five years. Agreements may individually provide for extensions to be approved by the City Council.

(3) (3)—All Planned Unit Developments (PUDs) shall require an agreement.

(4) (4)—Agreements may modify or limit the use and/or density provisions; may provide for extra or oversized buffers, setbacks, architecture, or landscaping; may restrict the location or design of buildings and other site features; may establish provisions for infrastructure improvements; and may establish operational restrictions on the uses within the planned development.

(f) Sewer connection. A sewer connection for new development shall be provided when a sewerage system is capable of being connected to the plumbing of an establishment or residence, is not under a Department of Environmental Protection moratorium, and has adequate permitted capacity to accept the sewage to be generated by the establishment or residence; and:

(1) For a residential subdivision lot, a single-family residence, or an establishment, any of which has an estimated sewage flow of 1,000 gallons per day or less, a gravity sewer line to maintain gravity flow from the property's drain to the sewer line, or a low pressure or vacuum sewage collection line in those areas approved for low pressure or vacuum sewage collection, exists in a public easement or right-of-way that abuts the property line of the lot, residence, or establishment.

(2) For an establishment with an estimated sewage flow exceeding 1,000 gallons per day, a sewer line, force main, or lift station exists in a public easement or right-of-way that abuts the property of the establishment or is within 50 feet of the property line of the establishment as accessed via existing rights-of-way or easements.

(3) For proposed residential subdivisions with more than 50 lots, for proposed commercial subdivisions with more than 5 lots, and for areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewerage system exists within one-fourth mile of the development as measured and accessed via existing easements or rights-of-way.

(4) For repairs or modifications within areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewerage system exists within 500 feet of an establishment's or residence's sewer stub-out as measured and accessed via existing rights-of-way or easements

(Ord. No. 01-99, §§ 1(103), 1(207), 11-3-1999)

Sec. 3.6. Notice requirements.

(a) For amendments to the text of this Code, or amendments to the city's official zoning map (rezonings) initiated by the city, notice shall include newspaper advertising and other notice required by F.S. 166.041.

(b) For amendments to the city's official Zoning Map (rezonings) including major amendments to a planned unit development initiated by persons or entities other than the city, the following notice shall be provided:

(1) Newspaper advertising and other notice required by F.S. 166.041;

- (2) At least ten (10) days prior to each public hearing on the proposed rezoning, notice shall be sent by the applicant via certified mail to the owners of all property that is within 300 feet from the boundaries of the property subject to proposed rezoning; and
- (3) At least ten (10) days prior to each public hearing on the proposed rezoning, a sign notice shall be posted by the applicant conspicuously on the property abutting the right-of-way. For corner lots, the sign notice shall be posted conspicuously on the property abutting the principal street subject to the proposed rezoning.
- (c) For approval or for consideration by the City Council of a special exception, variance, minor amendment to Planned Unit Development or appeal, the following notice shall be provided at least ten (10) days prior to the public hearing on the request:
- (1) A notice shall be sent by the applicant via certified mail to the owners of all property that is within 300 feet of the property subject to the request;
- (2) A sign notice shall also be posted by the applicant conspicuously on the property abutting the right-of-way. For corner lots, the sign notice shall be posted conspicuously on the property abutting the principal street subject to the request; and
- (3) A notice in a newspaper of general circulation. At a minimum the newspaper notice shall contain the nature of the request, the date, time and location of the public hearing(s) on the request, and the tax parcel identification number(s) for the property subject to the request, as required by F.S. 166.041 as amended.
- (d) Where certified mailed notice or posting is required, notice shall at a minimum contain the nature of the request, the date, time and location of the public hearing(s) on the request and the tax parcel identification number(s) for the property subject to the request.
- (e) For the purposes of notice under this section, the names and addresses of owners of property shall be determined by the latest ad valorem tax rolls.
- (f) For Comprehensive Plan amendments, due public notice shall be provided in accordance with F.S. § 166.041 and F.S. § 163.3184.
- (Ord. No. 01-99, § 1(114), 11-3-1999; Ord. No. 04-05, § 1, 2-2-2005; Ord. No. 05-09, § I, 5-6-2009; Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

Sec. 3.7. Owners' association.

No development order shall be issued for any development where there is any property within the development, which is not to be conveyed to an individual, to a condominium or cooperative, or to a government agency. Where property is to be conveyed to an owners' association, the following standards shall apply.

- (a) The organization or legal entity established for the purpose of owning and maintaining common land shall be created by covenants running with the land. The documents creating such an association shall be reviewed and approved by the City Attorney prior to issuance of the development order.

No such organization shall be dissolved nor shall it dispose of any common land or facilities by sale or otherwise except to an organization conceived and organized to own and maintain such common land or facilities. The organization may offer to dedicate all such land and facilities to the City. The City may make acceptance subject to improvements which will be made before the land or facilities are transferred. If the City agrees to accept the land and facilities, the organization may be disbanded, but not before the improvements are made and the property is transferred.

~~Sec. 1-5. – Administration.~~

~~(a) (a) City Council. The City Council is the governing body of the City, established and operating in accordance with law. The City Council shall have the following duties and responsibilities under this Code:~~

~~(1) (1) The City Council shall serve as the Local Planning Agency (LPA) for all purposes and as provided in F.S. ch. 163, pt. II (F.S. § 163.2511 et seq.), and shall perform all duties and comply with the requirements established therein, including responsibility for review of the Land Development Code for consistency with the adopted Comprehensive Plan. The LPA shall include a nonvoting school board representative member for certain comprehensive plan amendments and rezonings as provided by and in accordance with Florida law.~~

~~(2) The City Council shall review all of the Land Development Code and shall review applications for land development orders where such review is required by this Code.~~

~~(1) (3) The City Council shall hear and consider requests for variances from and shall hear appeals concerning the standards of this Code. All decisions of the City Council shall be consistent with the Comprehensive Plan.~~

~~(1) (4) The City Council shall make all interpretations of the Comprehensive Plan, including determinations that development orders are consistent with the adopted plan. The City Council may provide for delegation of such interpretations to the City Manager and by the City Manager to another party, subject to appeal of interpretation to the City Council.~~

~~(1) (5) The City Council shall hear and consider requests for special exceptions, as provided herein.~~

~~(1) (6) The City Council shall hear and consider requests for change in zoning and approval of development agreements (including development agreements under PUD regulations).~~

~~(1) (7) Action of the City Council shall be by vote of the majority of members present.~~

~~(a) (b) City Manager. The City Manager is the official employed by the City Council to be responsible for the day to day operation of the City. The City Manager shall have the following duties and responsibilities under this Code:~~

~~(1) (1) The City Manager shall be responsible for the administration and enforcement of this Code. The City Manager may designate other City officers, employees, or agents to perform administrative functions, make determinations, and enforce various provisions. Designation need not be in writing and may be inferred.~~

~~(1) (2) The City Manager shall prepare and present to the City Council reports on actions to be taken by the City Council, including appeals and requests for rezoning or development plan approval, and may present information items and request direction from the City Council for items where City Council approval is not otherwise required.~~

~~(1) (3) The City Manager may adopt regulations providing procedures, and forms for the implementation and enforcement of this Code. Where adopted, such procedures shall be used by City staff, land owners, and developers in the application for, review, and issuance of development orders and development permits, but deviations from such policies or procedures shall not be a basis for invalidation of any development order, development permit, or determination, provided all requirements of this Code have been met.~~

~~(b) (Ord. No. 01-99, § 1(104), 11-3-1999; Ord. No.~~

~~(Ord. No. 04-15, § II, 12-2-2015)~~

~~Sec. 01-99, § 1-6--(210), 11-3-1999)~~

Division 2. – APPLICATIONS

Sec. 3.8. Rezoning.

~~(a) (a)~~—*Procedure.*

- ~~(1) (1)~~—Land may be rezoned at the initiative of the property owner or other person with beneficial interest in the land as agent of the property owner. Rezoning may also be initiated by the City Council.
 - ~~(2) (2)~~—Any request for rezoning shall be made on forms provided by the City Manager accompanied by a letter of authorization from the property owner (if applicable), and a survey and legal description of the property to be rezoned. The City Manager will review the request (or have it reviewed) and will make a recommendation to the City Council for action.
 - ~~(3) (3)~~—A community meeting hosted and arranged by the applicant is required after a final recommendation has been issued by the DRC and which must be made prior to the meeting and the application shall be presented in its final form for all rezoning applications including Planned Unit Developments (PUD). The community meeting shall afford citizens and other affected parties an opportunity to discuss the applicant's proposal and express concerns, issues or problems they may have with the proposal in advance of the public hearing. Following the community meeting, the applicant shall submit a report documenting the results of the meeting. Notification of the community meeting shall be in accordance with the following.
 - ~~a. i.~~—The community meeting shall be held at least ~~seventen (10)~~ days prior to the first public hearing for the proposed ordinance.
 - ~~b. ii.~~—The level of citizen interest and area involvement will vary depending on the nature of the application and the project's location. The ~~applicant~~City will determine the target area for notification after consultation with the ~~Planning Administrator~~GMD and approval by the City Manager. But in no case shall the notification area for the community meeting be less than required by section ~~4-10(e)(1), 3.6~~, Notice requirements, ~~(currently 200 feet but as may be amended by City Council from time to time).~~
 - ~~c. iii.~~—The applicant shall notify neighborhood and homeowner's associations within the public notice area.
 - ~~d. iv.~~—The applicant shall provide a list to the City of all those notified by the applicant of the community meeting.
 - ~~(4) (4)~~—The City Council will review the request at ~~a two (2)~~ public ~~hearing~~hearings as a quasi-judicial proceeding pursuant to City Resolution # 2015-21 and following public notice as required by ~~law~~F.S. 166.041 and by this Code, and will approve, deny, continue, or approve with modifications.
 - ~~(5) (5)~~—If a request for a variance, rezoning, or special exception is denied, no substantially similar request may be considered within 180 days, unless this restriction is waived by the City Council.
- ~~(b) (b)~~—*Criteria for rezoning.* All applications for rezoning shall be reviewed in accordance with the following criteria:
- ~~(1) (1)~~—The proposal shall be consistent with the Comprehensive Plan, including proposed uses and intensity or density of use.
 - ~~(2) (2)~~—The establishment, maintenance, or operation of the uses permitted by the proposed rezoning shall not be detrimental to or endanger the public health, safety, or general welfare.

(3) (3)—The uses permitted by the proposed rezoning shall not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the districtrespective zoning districts and shall be consistent with the character of the immediate neighborhood.

(4) (4)—The establishment, maintenance, or operation of the uses permitted by the proposed rezoning shall be supported by adequate infrastructure or provisions shall be made to ensure that infrastructure is adequate when needed to serve the development.

(5) The proposed amendment shall not qualify as spot zoning, as defined in this Code.

(c) City initiated rezoning. The City may initiate rezoning of land as provided by F.S. § 166.041.

(1) The community meeting shall be held at least ten (10) days prior to the first public hearing for the proposed ordinance.

(2) The City shall notify all property owner subject to the rezoning as required by Sec. 3.6.

(3) Due public notice shall be provided in accordance with F.S. 166.041.

(Ord. No. 01-99, § 1(105), 11-3-1999; Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. 04-15, § III, 12-2-2015)

Sec. 3.9. Rezoning to PUD.

(a) Preapplication stage. A preapplication meeting is required before a PUD rezoning application can be accepted. After the preapplication meeting, a concept plan may be submitted for review and comment prior to filing the application for rezoning.

(1) Preapplication meeting. The preapplication meeting is intended to provide an opportunity for an informational exchange between the applicant and the administrative staff. No fee shall be charged. The applicant need not submit any plans or other information; however, the more information, such as concept plans, proposed land uses, site information, adjacent land uses, and proposed density, that the applicant does submit, the more complete the responsive comment can be. As a minimum, the applicant will be advised of the usual procedures and requirements. Forms, application materials, guidelines, checklists, and copies of the Comprehensive Plan, and of the zoning and subdivision regulations, will be made available at a reasonable cost.

(2) Concept plan. After the preapplication meeting, a concept plan may be submitted to the GMD. If submitted, written comments on the concept plan shall be made by the GMD and any interested departments within 30 days. The GMD shall coordinate this review. If submitted, a concept plan shall indicate general land use categories and the approximate height, location, architectural character and density of dwellings, and other structures. The concept plan shall also show the tentative major street layout, approximate street widths, sites of schools, open space areas and parks, existing structures, waterways, wooded areas, wetlands, floodplain areas (if applicable), total acreage and existing zoning. Finally, it shall include a vicinity map, and any other information deemed appropriate by the applicant. Written comments on the concept plan are informational only and are subject to change after a more detailed review of the rezoning application.

(b) RPUD application stage. An application for rezoning to RPUD, together with a master development plan (MDP) and such application fees as are set at the preapplication meeting, shall be submitted to the City Manager or his/her designee. The master development plan shall consist of a preliminary plan and a written development agreement. Those documents shall include the following information:

(1) Preliminary plan exhibits. The preliminary plan shall consist of the following:

a. Name of project and name, address, telephone number of the developer and the professional project engineers, architects and planners.

- b. The date the plan was drawn, its scale, and a north arrow.
- c. Names and location of adjoining streets and names of abutting property owners.
- d. Legal description of property, boundary survey and the location of all existing streets, buildings, railroads, bulkhead lines, easements, and other important features in or adjoining the property.
- e. The general topography and physical conditions of the site, including natural areas of vegetation and type, general soil types, wetland areas, 100-year floodplain areas, watercourses, water bodies, and natural drainage patterns.
- f. Conceptual configuration of proposed streets, which depict access into and traffic flow within the development, with particular reference to the separation of vehicular traffic from pedestrian or other types of traffic.
- g. General feasibility plans for potable water, sewage disposal, and stormwater drainage.
- h. Approximate location and area encompassed for each proposed land use within the development.
- i. Approximate location and size of common open space.
- j. Such additional material, maps, studies, or reports subsequently deemed necessary by any reviewing department or agency.

(2) *Written development agreement.* In addition to a preliminary plan, a written development agreement shall be prepared, following a general format supplied by the GMD at the preapplication meeting. The development agreement, along with the preliminary plan, shall govern the development of the PUD and shall regulate the future use of the land. The development agreement shall include the following:

- a. Evidence of unified ownership and control.
- b. Statement agreeing to:
- c. Proceed with the proposed development according to all regulations;
- d. Provide appropriate performance and maintenance guarantees;
- e. Follow all other provisions of this Code to the extent not expressly inconsistent with the written development agreement, and bind the applicant's successors in title to his or her commitments.
- f. The acreage and percentage of the total land area devoted to each of the proposed land uses.
- g. Maximum density for each type of dwelling.
- h. Maximum building heights.
- i. Minimum building spacing and floor areas.
- j. Lot sizes, yard areas and buffer areas, including perimeter buffers.
- k. Statement regarding the disposition of sewage and stormwater, and arrangements for potable water.
- l. When the PUD is planned for phase development, a schedule of the phases.

- m. The proposed language of any covenants, easements or other restrictions.
 - n. Maximum number of dwelling units by type.
 - o. Any additional information or statements subsequently deemed necessary by any reviewing department or agency.
 - p. Conditions that all provisions of the development agreement shall expire 720 days following execution of the development agreement by the City, if a subsequent development order has not been secured in writing by the applicant. Upon expiration of the agreement the zoning designation will revert to its previous designation and the PUD entitlements become null and void.
- (c) *BPUD, IPUD or MPUD application stage.* An application for rezoning to BPUD, IPUD or MPUD, together with a master development plan (MDP) and such application fees as are set at the preapplication meeting, shall be submitted to the City Manager or his/her designee. The master development plan shall consist of a preliminary plan and a written development agreement. Those documents shall include the following information:
- (1) *Preliminary plan exhibits.* The preliminary plan shall be drawn to an appropriate engineer's scale to include the location and boundary of the site referenced by the legal description and boundary survey; the date the plan was drawn, its scale, and a north arrow; and the name, address and telephone number of the developer and his professional project engineers, architects and planners. In addition, the preliminary plan shall include all of the following, if applicable. The PUD establishes the zoning/permitted use of property; items (a), (f), (h), (j) below if not known or applicable at the time of the zoning request will be provided on the overall development plan or final site plan as appropriate.
 - a. The approximate size and location of all proposed buildings and other structures, if known, and the specified use of buildings and structures may be indicated, if known.
 - b. Generalized off-street parking area and loading plans, including circulation plans for vehicular movement.
 - c. Driveway and access controls, including number and approximate location of driveways.
 - d. Approximate location, size and description of open spaces, landscaped areas, or buffers.
 - e. Approximate location and size of all easements, rights-of-way, or drainage facilities and structures.
 - f. Approximate boundary lines and dimensions of parcels proposed to be subdivided, if applicable.
 - g. The general topography and physical conditions of the site, including features such as water bodies, wooded areas, wetland areas, vegetation types, soils, 100-year floodplain areas, and steep grades or depressions on the site.
 - h. General location of signs, if known.
 - i. Approximate location of dumpsters, solid waste receptacle enclosures, etc., if known.
 - j. Any other conditions of development, specifications, limitations, constraints, standards or proposed physical features not specifically included in subparagraphs a. through j. of this paragraph.
 - (2) *Written development agreement.* In addition to a preliminary plan, a written development agreement shall be prepared, following a general format supplied by the City Manager at the

preapplication meeting. The development agreement, along with the preliminary plan, shall govern the development of the BPUD, MPUD or IPUD and shall regulate the future use of the land. The development agreement shall include the following information:

- a. Evidence of unified ownership and/or control.
- b. Statement agreeing to:
- c. Proceed with the proposed development according to all regulations:
- d. Provide appropriate performance and maintenance guarantees;
- e. Following all other provisions of this Code to the extent not expressly inconsistent with the written development agreement, and bind the applicant's successors in title to his commitments.
- f. A listing of the land uses agreed upon in each component of the BPUD, MPUD or IPUD.
- g. Maximum building heights.
- h. Minimum building spacing and floor areas.
- i. Lot sizes, if known, yard areas, and buffer areas, including perimeter buffers.
- j. Statement regarding ingress/egress controls to the site.
- k. Statement regarding any road improvements to be made and the thresholds for the traffic impact analysis.
- l. Statement regarding the disposition of sewage and stormwater, and arrangements for potable water.
- m. When the BPUD, MPUD or IPUD is planned for phased development, a schedule of the phases.
- n. The proposed language of any covenants, easements or other restrictions.
- o. Maximum amount of square footage by use.
- p. Any additional information or statements subsequently deemed necessary by any reviewing department or agency.
- q. Condition that all provisions of the development agreement shall expire 720 days following execution of the development agreement by the City, if a subsequent development order has not been secured in writing by the applicant. Upon expiration of the agreement the zoning designation will revert to its previous designation and the PUD entitlements become null and void.

(d) Post-approval stage.

- (1) Recording MDP. After City Council approval of the rezoning application to PUD, the preliminary plan, and the written development agreement, both signed by the Mayor, and attested by the City Manager, shall be recorded in the public records of the County at the expense of the applicant.
- (2) Final site plan approval. After the MDP is recorded, a final site plan shall be prepared and submitted in the manner required by this Code. If the PUD includes a subdivision required to comply with this Code, preliminary and final plats of the subdivision portion may be submitted in lieu of the final site plan, for review and approval as governed under this Code.

(3) Construction. During construction, the City Manager shall enforce compliance with the approved final site plan or the final plat.

(4) Legally existing PUDs. Residential Planned Unit Developments (RPUDs), Business Planned Unit Developments (BPUDs), and Industrial Planned Unit Developments (IPUDs) which were in existence prior to October 27, 1990, shall continue in the manner approved by the County Council. To the extent of any specific amendment to these aforesaid PUDs, said amendment must comply with the requirements of this Chapter. Terms previously used in said PUDs may continue to be employed.

Sec. 3.10. PUD Amendments.

(a) After approval of a Planned Unit Development and its corresponding development agreement and master development plan, the city may issue development permits which are consistent with the approved Planned Unit Development until its expiration specified in the development agreement. The City Council may grant extensions to a Planned Unit Development and its corresponding development agreement and master development plan.

(b) Subsequent to the approval of the planned unit development, the City Council may approve minor modifications of the Planned Unit Development as long as the modification requested is not contrary to the specific provisions of the PUD ordinance. Minor modifications are those for which:

(1) The proposed site alterations must not increase the building size more than ten percent of the gross floor area of all buildings within the development.

(2) The proposed site alteration must not adversely affect traffic circulation on- or off-site.

(3) The proposed site alterations must not have a significant impact upon the utility system.

(4) The proposed site alterations must comply with all codes, rules, and regulations of the city, county, state and federal governments, and must not require variances.

(5) The proposed modification must not increase the maximum density of development.

(6) The proposed modification does not change permitted uses or special exception uses.

(c) Requests for modifications to a planned unit development which meet the standards of subsection (b) may be adopted by resolution of the City Council after one public hearing and notice as provided in accordance with Sec.3.6. After City Council approval of a minor amendment, the adopted resolution along with its corresponding revisions to the development agreement and master development plan shall be recorded in the public records of Volusia County, Florida, at the expense of the applicant.

(d) Requests for modifications which do not meet the standards in subsection (b) shall be reviewed and processed in the manner provided for new planned unit development applications, as provided for in Sec. 3.8 and 3.9 of this Code.

Sec. 3.11. Variances.

The City Council may grant a variance from the strict application of a provision of this Code if the effect of the variance is in harmony with the general purpose and intent of the Comprehensive Plan and with these regulations and standards and where the City Council, pursuant to City Resolution # 2015-21, makes findings of fact, based on the standards hereinafter described, that there are practical difficulties or particular hardships in carrying out the strict letter of the regulation or regulations.

(a) Procedure. Any person desiring to make improvements to property or to erect any structure not in conformance with the regulations or standards in this Code shall apply for a variance. Consideration of a request for a variance by the City Council shall be a quasi-judicial action and shall be considered

after due public notice. Public notice shall include newspaper advertising as required by state law and Section 3.6.

(b) Limitations on granting variances. The City Council shall not vary the provisions of this Code unless it includes within the record of its action findings based upon the evidence presented to it in each specific case that all of the following conditions are met:

- (1) The particular physical surroundings, shape, topographical conditions, or other physical or environmental condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
- (2) The conditions upon which the request for a variance is based are unique to the parcel and would not be applicable, generally, to other property within the vicinity.
- (3) The plight of the landowner is due to unique circumstances and not the result of his or her own action or failure to act.
- (4) The variance, if granted, will be the minimum variance necessary to accomplish the objectives and will not alter the essential character of the area.
- (5) The purpose of the variance request is not based exclusively upon an economic hardship.
- (6) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity.
- (7) The proposed variance will be consistent with the provisions of the Comprehensive Plan and the purposes of this Code.

(c) Conditions. In giving development order approval of a variance, the City Council may impose such conditions and restrictions as may be necessary to comply with the standards of this Code to reduce or minimize the injurious effects of such variance upon other property in the vicinity and so as to carry out the intent and purposes of this Code and the Comprehensive Plan. Such conditions shall conform to the limitations set out in this Code and shall be enforceable as are any other provisions of this Code.

(d) Expiration. The activity permitted by a variance shall be commenced within the valid period of the issued development order.

(e) Administrative variances. The City Manager shall have the power to grant approval of an application for an administrative variance. An administrative variance may only modify setbacks, buffer widths, yard dimensions, height or floor area when the variance requested is equal to or less than 10 percent of the required setback, buffer width, yard dimensions, height or floor area requirement. If the City Manager denies an application for an administrative variance, an appeal may be submitted to City Council in accordance with Sec. 3.13 of this Code.

(Ord. No. 01-99, § 1(107), 11-3-1999; Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

Sec. 3.12. Special exceptions.

Certain uses or development situations are "special exceptions." These uses or development situations are generally permitted in the zoning district indicated, but may involve consideration of special circumstances or factors to determine that they are appropriate to the specific location and property. These uses may also require additional conditions to be imposed to ensure compatibility with the surrounding area and consistency with the overall objectives of this Code and the Comprehensive Plan. Uses permitted by special exception shall be reviewed by the City Council pursuant to City Resolution # 2015-21

(a) Procedure for review of special exception.

- (1) A request for approval of a special exception shall be filed with the City Manager or his or her designee. The request may be filed and processed in conjunction with any other request, such as a request for a change of zoning. The request shall be accompanied by a development plan for the project, unless it is determined by the City Manager that the nature of the request and the issues involved are not appropriate for development plan review.
- (2) In considering a request for a special exception, the City Council shall evaluate the criteria as they relate to the specific use requested and the specific location of the proposed special exception.

(b) Criteria for special exceptions. All applications for special exceptions shall be reviewed and approved in accordance with the following criteria:

- (1) The proposal shall be consistent with the Comprehensive Plan.
- (2) The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.
- (3) The proposed use shall not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the respective zoning districts and shall be consistent with the character of the immediate neighborhood.
- (4) Adequate measures shall be taken for ingress, egress and parking in a manner consistent with traffic operations and safety.
- (5) The proposal shall not have a substantial adverse effect on any known archaeological, historical, or cultural resource located on or off the site.
- (6) The proposed design shall minimize adverse effects of the use on adjacent property, including visual impacts.
- (7) Adequate provision shall be made for buffers, landscaping, public open space, and other improvements necessitated by the proposal.
- (8) The use shall meet the lot and building requirements of the zoning district in which it is located. A special exception shall meet any specific requirements identified in this Code and no variance shall be granted from these requirements.
- (9) The use shall comply at all times with the approved development plan, and any conditions imposed for establishment and operation of the use.

(c) Imposition of conditions. In approving a special exception, the City Council may impose such additional reasonable conditions for establishment and operation of the use, including but not limited to:

- (1) Hours of operation of the use.
- (2) Restraints to minimize environmental effects such as noise, vibration, air pollution, glare, and odor.
- (3) Special yard or other open space, lot area, or dimension requirements exceeding the requirements of the applicable zoning district.
- (4) Height, size, or location limitations on buildings or other structures.
- (5) Increase of the required amount of street dedication, roadway width, or improvements within the street right-of-way.

(6) Regulation of the size, location, screening, drainage, surfacing, or other improvement of a parking or truck loading area, and control of traffic generation or circulation.

(7) Regulation of the number, size, location, height, or lighting of signs.

(8) Regulation of the location, intensity, and shielding of outdoor lighting.

(9) Berming, screening, landscaping, or other measures to protect adjacent or nearby property, including standards for installation and maintenance.

(10) Regulation of the size, height, location, or materials for a fence or wall.

(11) Regulations to protect existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.

(12) Consideration of the size, style, history, and appearance of a structure to ensure architectural compatibility with other structures in the district except for single and two-family dwelling units.

(d) *Previously approved special exceptions.* It is the intent of this Code that any use or situation approved as a special exception prior to the effective date of this Code shall continue to be valid unless the use or situation is abandoned for more than 180 days based on utility records and/or occupancy or a change is requested. Any change shall be processed as a new request for a special exception under the provisions of this Code. *The use or activity permitted under a special exception shall be commenced within the valid period of the issued development order.*

(Ord. No. 01-99, § 1(108), 11-3-1999)

Appeals

Sec. 1-7. – Interpretations and appeals.

(a) – Procedure for interpretations.

~~(1) – Where any person is unsure of his status with respect to the application of this Code, either before or after the Code has been applied, he may request a formal interpretation. Requests for interpretations shall be made to the City Manager. Interpretations shall be made in writing and provided to the requesting party within ten days after receipt of the request. The City Manager will maintain in one place a copy of all written interpretations and shall make these available for review upon request.~~

~~(2) – Any person (including the City Council acting as a body) may appeal an interpretation as provided herein.~~

Sec. 3.13. (b)

(a) Purpose of Planning and Zoning Appeals Requirements

(1) This Part is established to provide a procedure for the hearing and decision of appeals to certain determinations made under this Chapter by the City Manager or the GMD and their designees.

(b) Authorization

Matters subject to appeal.

(1) ~~(1)~~ – An appeal may be brought by an applicant or owner of property or their designated agent subject to the action being appealed, the City Council acting as a body, and/or an aggrieved or adversely affected person.

(2) ~~Matters subject to appeal.~~ ~~(2)~~ – Any decision or interpretation of the provisions or requirements of this Code made by the City Manager or the GMD may be appealed. Such appeal shall describe

the decision or interpretation being appealed and the nature of the proposed correct decision or interpretation. Where the City Manager or GMD has delegated or assigned a responsibility or duty to another employee or another party (including an assignment under a contract to provide administrative services), an appeal may be taken from an action of that other party to the City Manager and, subsequently, to the City Council under this section.

- (3) (3)—An action by the City Manager or GMD approving, approving with conditions, or denying an application for a development order may be appealed. Such appeal shall state the basis for the appeal, including reference to specific provisions of the Comprehensive Plan, applicable laws, or this Code, with which the action is alleged to be inconsistent.

Matters which may/may not be appealed. The validity of language of any section or provision of this Code may not be appealed—only the application of that language to a specific situation or circumstance. No requirement which is a requirement of or is directly based on and/or made directly pursuant to a requirement of the county, the state, or any federal or regional agency may be appealed. No provision or requirement of the Comprehensive Plan may be appealed; however, an interpretation of the meaning of a plan provision may be appealed to the extent that it affects a decision or action under this Code.~~(c)~~—Procedure for appeal.

(c) (4)

(d) The Appeal Review Process

- (1) Initiation. An appeal may be brought by an applicant or owner of property subject to the action being appealed and/or an aggrieved or adversely affected person.
- (2) Time Limit for Filing. The appeal shall be filed with the City Manager taken within ten (10) business days after the occurrence of the action being appealed, rendering in writing of the order, requirement, decision, or determination appealed from by filing with the administrative official from whom the appeal is taken, a written notice of appeal specifying the grounds thereof. Where the provisions of this Code do not require a written statement or action as part of the decision process, and in order to establish a basis for appeal, the person making the appeal may request a written statement from the City Manager making a formal decision or interpretation as it applies to the property or situation involved in the appeal, in which case the appeal shall be filed within ten (10) business days after the issuance of such written statement.
- (3) (2)—Stay of Work and Proceedings on Appeal. When an appeal has been filed with the administrative official, all proceedings and work on the premises concerning which the decision was made shall be stayed unless the official from whom the appeal was taken shall certify to the reviewing authority that by reasons of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by a restraining order which may be granted by the reviewing authority, or by a court of record.
- (4) Transmittal of the Record. The administrative official from whom the appeal is taken shall transmit to the appropriate reviewing authority all papers, documents and maps constituting the record of the action from which the appeal is taken.
- (5) Appeal of Authority's Decision (Administrative). Any action by the City Manager, GMD, or other administrative official in approving, approving with conditions, or denying an application for development approval may be appealed to City Council. Any action of the City Manager, GMD, or other administrative official in approving or denying an action prescribed by this Code or in taking or failing to take an action under the provisions of this Code may be appealed to City Council.
- a. The appeal shall be considered by the City Council at a regular or special meeting within 60 days of the City Manager's receipt of a timely filed petition.

b. ~~(3)~~—In considering an appeal, the City Council will conduct a public hearing with public notice. The Mayor or presiding officer may administer oaths and compel the attendance of witnesses. The City Council may reverse or affirm, wholly or partly, or modify any order, requirement, decision, or determination within its jurisdiction and may make such order, requirement, decision, or determination as ought to be made. Consideration of an appeal by the City Council shall be a quasi-judicial action.

c. ~~(4)~~—Action to reverse or modify any order, requirement, decision, or determination under this Code, or to decide in favor of the applicant on any matter upon which it is required to act, or to effect any variation from these regulations, shall require the concurring vote of the majority of the entire Council.

(6) Appeal of Authority's Decision (Quasi-Judicial Hearing). Any action by the City Council in approving, approving with conditions, or denying an application for development approval may be appealed to court under the applicable provisions of state law. Any action of the City Council in approving or denying an action prescribed by this Code or in taking or failing to take an action under the provisions of this Code may be appealed to court under the applicable provisions of state law.

It is the intent of the City, however, that reasonable effort will be taken to resolve disputes through the dispute resolution processes established by state law and by the City's adopted Comprehensive Plan.~~(d)~~

(e) Effect of decision on an appeal.

(1) ~~(4)~~—All decisions of the City Council are expressly conditioned upon the appellant or applicant obtaining the permit requested, or complying with such other order, and beginning construction within one year from the date of the decision. If compliance with all requirements has not been made and the permit has not been issued within one year, then the ~~variance or special exception permit~~ shall expire. Extensions may be granted by the City Council, provided that extensions shall not exceed one year.

(2) ~~(2)~~—Upon denial of a request, an applicant may not apply for the same relief or relief of the same condition until 180 days after the date of final action.

~~(c) Matters which may/may not be appealed. The actual language of any section or provision of this Code may not be appealed—only the application of that language to a specific situation or circumstance. No requirement which is a requirement of or is directly based on and/or made directly pursuant to a requirement of the county, the state, or any federal or regional agency may be appealed. No provision or requirement of the Comprehensive Plan may be appealed; however, an interpretation of the meaning of a plan provision may be appealed to the extent that it affects a decision or action under this Code.~~

Division 3. CONCURRENCY

Concurrency~~(Ord. No. 01-99, § 1(106), 11-3-1999; Ord. No. 02-12, § 2(Exh. A), 9-5-2012)~~

Sec. 1-8. Variances.

~~The City Council may grant a variance from the strict application of a provision of this Code if the effect of the variance is in harmony with the general purpose and intent of the Comprehensive Plan and with these regulations and standards and where the City Council makes findings of fact, based on the standards hereinafter described, that there are practical difficulties or particular hardships in carrying out the strict letter of the regulation or regulations. Variances may also be issued in cases where the City Council determines that failure to permit the requested relief would subject the City to a claim of equitable estoppel.~~

- ~~(1) *Procedure.* Any person desiring to make improvements to property or to erect any structure not in conformance with the regulations or standards in this Code shall apply for a variance. Consideration of a request for a variance by the City Council shall be a quasi-judicial action and shall be considered after due public notice. Public notice shall include newspaper advertising as required by state law.~~
- ~~(a) (2) *Limitations on granting variances.* The City Council shall not vary the provisions of this Code unless it includes within the record of its action findings based upon the evidence presented to it in each specific case that all of the following conditions are met:~~
- ~~a. The property in question cannot yield a reasonable and beneficial use if permitted to be developed only under the regulations and standards in this Code.~~
 - ~~b. The plight of the landowner is due to unique circumstances and not the result of his own action or failure to act.~~
 - ~~c. The variance, if granted, will be the minimum variance necessary to accomplish the objectives and will not alter the essential character of the area.~~
- ~~(3) *Criteria for approval of a variance.* For the purpose of implementing this provision, the City Council, in making its determination whether there are practical difficulties or particular hardships, also shall take into consideration the extent to which the following facts favorable to the applicant have been established by the evidence:~~
- ~~a. The particular physical surroundings, shape, topographical conditions, or other physical or environmental condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.~~
- ~~(1) b. The conditions upon which the request for a variance is based are unique to the parcel and would not be applicable, generally, to other property within the vicinity.~~
- ~~c. The purpose of the variance request is not based exclusively upon an economic hardship.~~
 - ~~d. The alleged difficulty or hardship has not been created by any act or failure to act by the person owning the property.~~
 - ~~e. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity.~~
 - ~~f. The proposed variance will be consistent with the provisions of the Comprehensive Plan and the purposes of this Code. A variance shall meet any specific requirements identified in this Code and no variance shall be granted from these requirements.~~
- ~~(a) (4) *Conditions.* In giving preliminary development approval involving a variance, the City Council may impose such conditions and restrictions as may be necessary to comply with the standards in this Code to reduce or minimize the injurious effects of such variance upon other property in the vicinity and so as to carry out the intent and purposes of this Code. Such conditions shall conform to the limitations set out in this Code and shall be enforceable as are any other provisions of this Code.~~
- ~~(5) *Expiration.* The activity permitted by a variance shall be commenced within one year after approval or the variance shall expire.~~
- ~~(6) *Administrative variances.* The City Manager shall have the power to grant approval of an application for an administrative variance. An administrative variance may only modify setbacks, buffer widths, yard dimensions, height or floor area when the variance requested is equal to or less than ten percent of the required setback, buffer width, yard dimensions, height or floor area requirement. If the City Manager denies an application for an administrative variance, an application may be submitted to City Council in accordance with section 1-8 (1-5) of this Code.~~

~~(Ord. No. 01-99, § 1(107), 11-3-1999; Ord. No. 02-12, § 2(Exh. A), 9-5-2012)~~

~~Sec. 3.1. Sec. 1-9. - Special exceptions.~~

~~Certain uses or development situations are "special exceptions." These uses or development situations are generally permitted in the zoning district indicated, but may involve consideration of special circumstances or factors to determine that they are appropriate to the specific location and property. These uses may also require additional conditions to be imposed to ensure compatibility with the surrounding area and consistency with the overall objectives of this Code.~~

~~(1) Procedure for review of special exception.~~

- ~~(1) a. A request for approval of a special exception shall be filed with the City Manager or his designee. The request may be filed and processed in conjunction with any other request, such as a request for a change of zoning. The request shall be accompanied by a development plan for the project, unless it is determined by the City Manager that the nature of the request and the issues involved are not appropriate for development plan review.~~
- ~~b. In considering a request for a special exception, the City Council shall evaluate the criteria as they relate to the specific use requested and the specific location of the proposed special exception.~~
- ~~c. If the City Council determines that the special exception reasonably meets the criteria, or can be conditioned to meet the criteria, it will approve the request. If the City Council determines that the proposed special exception cannot reasonably be conditioned to meet the criteria, it will deny the request. If the request is denied, the reasons therefor will be provided as part of the action denying the request.~~

~~(a) (2) Criteria for special exceptions. All applications for special exceptions shall be reviewed and approved in accordance with the following criteria:~~

- ~~(1) a. The proposal shall be consistent with the Comprehensive Plan.~~
- ~~(1) b. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.~~
- ~~c. The proposed use shall not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the district and shall be consistent with the character of the immediate neighborhood.~~
- ~~(1) d. Adequate measures shall be taken for ingress, egress and parking in a manner consistent with traffic operations and safety.~~
- ~~(1) e. The proposal shall not have a substantial adverse effect on any known archaeological, historical, or cultural resource located on or off the site.~~
- ~~(1) f. The proposed design shall minimize adverse effects of the use on adjacent property, including visual impacts.~~
- ~~(1) g. Adequate provision shall be made for buffers, landscaping, public open space, and other improvements necessitated by the proposal.~~
- ~~(1) h. The use shall meet the lot and building requirements of the district in which it is located unless the requirements are specifically modified by the City Council. A special exception shall meet any specific requirements identified in this Code and no variance shall be granted from these requirements.~~
- ~~(1) i. The use shall comply at all times with the approved development plan, and any conditions imposed for establishment and operation of the use.~~

~~(a)(3) Imposition of conditions. In approving a special exception, the City Council may impose such additional reasonable conditions for establishment and operation of the use, including but not limited to:~~

~~(1) a. Hours of operation of the use.~~

~~(1) b. Restraints to minimize environmental effects such as noise, vibration, air pollution, glare, and odor.~~

~~c. Special yard or other open space, lot area, or dimension requirements.~~

~~(1) d. Height, size, or location limitations on buildings or other structures.~~

~~(1) e. Increase of the required amount of street dedication, roadway width, or improvements within the street right-of-way.~~

~~(1) f. Regulation of the size, location, screening, drainage, surfacing, or other improvement of a parking or truck loading area, and control of traffic generation or circulation.~~

~~(1) g. Regulation of the number, size, location, height, or lighting of signs.~~

~~(1) h. Regulation of the location, intensity, and shielding of outdoor lighting.~~

~~(1) i. Berming, screening, landscaping, or other measures to protect adjacent or nearby property, including standards for installation and maintenance.~~

~~(1) j. Regulation of the size, height, location, or materials for a fence or wall.~~

~~(1) k. Regulations to protect existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.~~

~~l. Consideration of the size, style, history, and appearance of a structure to ensure architectural compatibility with other structures in the district.~~

~~(4) Previously approved special exceptions. It is the intent of this Code that any use or situation approved as a special exception prior to the effective date of this Code shall continue to be valid unless the use or situation is abandoned for more than 180 days based on utility records and/or occupancy or a change is requested. Any change shall be processed as a new request for a special exception under the provisions of this Code. The use or activity permitted under a special exception shall be commenced within one year after approval or the special exception shall expire, unless a different term is provided as part of the approval of the special exception.~~

~~(Ord. No. 01-99, § 1(108), 11-3-1999)~~

~~Sec. 1-10. Notice requirements.~~

~~(a) For amendments to the text of this Code, or amendments to the city's official zoning map (rezonings) initiated by the city, notice shall include newspaper advertising and other notice required by state law.~~

~~(b) For amendments to the city's official zoning map (rezonings) including major amendments to a planned unit development initiated by persons or entities other than the city, the following notice shall be provided:~~

~~(1) Newspaper advertising and other notice required by state law;~~

~~(2) At least ten days prior to each public hearing on the proposed rezoning, notice shall be sent by the applicant via certified mail to the owners of all property that is within 1,000 feet from the boundaries of the property subject to proposed rezoning, and the applicant shall notify neighborhood and homeowner's associations within the public notice area; and~~

- ~~(3) — At least ten days prior to each public hearing on the proposed rezoning, a notice shall be posted by the applicant conspicuously on the property subject to the proposed rezoning.~~
- ~~(c) — For approval or for consideration by the City Council of a special exception, variance, minor amendment to Planned Unit Development or appeal, the following notice shall be provided at least ten days prior to the public hearing on the request:~~
- ~~(1) — A notice shall be sent by the applicant via certified mail to the owners of all property that is within 1,000 feet of the property subject to the request, and the applicant shall notify neighborhood and homeowner's associations within the public notice area;~~
- ~~(2) — A notice shall also be posted by the applicant conspicuously on the property subject to the request; and~~
- ~~(3) — A notice in a newspaper of general circulation. At a minimum the newspaper notice shall contain the nature of the request, the date, time and location of the public hearing(s) on the request, and the tax parcel identification number(s) for the property subject to the request.~~
- ~~(a) (d) — Where certified mailed notice or posting is required, notice shall at a minimum contain the nature of the request, the date, time and location of the public hearing(s) on the request and the tax parcel identification number(s) for the property subject to the request.~~
- ~~(a) (e) — For the purposes of notice under this section, the names and addresses of owners of property shall be determined by the latest ad valorem tax rolls.~~

~~(Ord. No. 01-99, § 1(114), 11-3-1999; Ord. No. 04-05, § 1, 2-2-2005; Ord. No. 05-09, § I, 5-6-2009; Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. 05-19, § 2, 8-8-2019)~~

~~Sec. 1-11. — Appeal to court.~~

- ~~(a) — Any action by the City in approving, approving with conditions, or denying an application for development approval may be appealed to court under the applicable provisions of state law. Any action of the City Council in approving or denying an action proscribed by this Code or in taking or failing to take an action under the provisions of this Code may be appealed to court under the applicable provisions of state law.~~
- ~~(b) — It is the intent of the City, however, that reasonable effort will be taken to resolve disputes through the dispute resolution processes established by state law and by the City's adopted Comprehensive Plan.~~

~~(Ord. No. 01-99, § 1(109), 11-3-1999)~~

~~Sec. 1-16. — Assessment of fees, costs and expenses for development.~~

- ~~(a) — *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:~~
- ~~*Application* shall mean and refer to an application or petition or proposal submitted to the City for review or approval of:~~
- ~~(1) — A preliminary subdivision plan;~~
- ~~(2) — A subdivision plan or plat;~~
- ~~(3) — A rezoning (with or without a Comprehensive Plan amendment);~~
- ~~(4) — A Comprehensive Plan amendment;~~
- ~~(5) — A variance;~~
- ~~(6) — A special exception;~~

- (7) ~~A Planned Unit Development;~~
- (8) ~~Subdivision review exemption;~~
- (9) ~~Site plan;~~
- (10) ~~A development permit for construction, inspection and testing of subdivision improvements;~~
- (11) ~~Conceptual site plan review;~~

Sec. 3.14. (12) — Stormwater management permit; system.

(a) General provisions.

- (1) The purpose of the concurrency management system is to meet the legal requirement that no development be permitted unless the public facilities necessary to support the development are in place with adequate capacity to serve the development or will be in place when needed by the development.
- (2) It is the intent of this Code that the provisions of this section will not be applied in such a way as to deprive the owner of property from the reasonable beneficial use thereof.

(b) Determination and offsetting of impact on public services and facilities of the City.

- (1) Procedure. During the review of an application for a development order or development permit, a determination will be made by the City according to policies set out in the Comprehensive Plan and this Code as to the environmental, physical and fiscal impact of the development on the public services and facilities of the City as set forth in this section and the Comprehensive Plan and the measures necessary to offset said impacts.
 - a. The determination of impact will use the best available information and will be based upon the maximum impact of the proposed development as generated from the submitted application for a development order or development permit. The applicant is encouraged to provide any information in addition to required submittals that will assist in more accurately determining impact.
 - b. The measures necessary to offset the impact of the proposed development shall be as set out in this section.
- (2) Availability of the stormwater management system. The proposed development shall be designed to provide for the construction and maintenance of a stormwater management system, which conforms to the standards of chapter 10, the Comprehensive Plan, and any other governmental agency having jurisdiction over the area.
- (3) Availability of the potable water system. The availability and capacity of the potable water system shall be as provided in this Code and the Comprehensive Plan.
- (4) Availability of the sanitary sewer system. The availability and capacity of the sanitary sewer system shall be as provided in this Code and the Comprehensive Plan.
- (5) School system sites in new residential development. In order to provide for lands to be used to meet the need for school sites created by new residential development, a developer may dedicate land to the county school board of suitable size, dimension, soil type, topography and general character to meet the need for school sites created by the development or as required by the Comprehensive Plan or Volusia County Public Schools (VCPS).
- (6) Availability of solid waste facilities. The availability and capacity of solid waste facilities shall be as provided in this Code and the Comprehensive Plan.

(7) Traffic impact analysis methodology and requirements. A traffic impact analysis (TIA), preceded by a written methodology statement for review and approval by the City Traffic Engineer, shall be provided with all development applications subject to concurrency review. Please also see the City's Mobility areas and requirements for applicability. The TIA shall follow the report requirements of the document entitled *Transportation Impact Analysis (TIA) Guidelines – For Development Applications Requiring a TIA Within the River to Sea TPO Metropolitan Planning Area, Dated June 22, 2016* as approved by the River to Sea Transportation Planning Organization (R2CTPO) as amended from time-to-time, and adopted here by reference as an administrative requirement.

Thresholds for traffic impact analysis report. (13) — Tree removal permit;

(14) — Wetland alteration permit;

(15) — A development agreement; and/or

(16) — Other development related matters for which City approval or review is required.

~~City staff shall mean and refer to City employees, City consultants, City attorneys, City engineers, and those companies, governments, individuals and other entities under contract with the City to provide services to or for the City.~~

~~Development review fee shall mean and refer to the combination of the flat fee and the review costs to be paid by an applicant pursuant to this section.~~

~~Owner's authorized agent shall mean and refer to an agent of the owner duly authorized to submit and process an application. If the applicant is not the property owner, a written authorization must accompany the application. Such authorization shall be evidenced by a power of attorney signed by the owner and notarized specifically authorizing the agent to represent the owner in connection with the application and as to the owner's real property which is the subject of the application. The authorization shall include an agreement of the owner to be bound by the actions of the owner's authorized agent and the provisions of this Code.~~

~~Review deposit shall mean and refer to the review deposit, as established by this section and as established from time to time by resolution of the City Council, to be paid by an applicant at the time of the filing of an application in those circumstances where review costs are paid by the applicant under the provisions of this section.~~

~~(b) — Review deposits:~~

~~(1) — In addition to the flat fee required, a \$2,000.00 review deposit payable to the City by money order, personal or company check or cashier's check drawn on a financial institution authorized to do business in the county, shall be delivered to and collected by the City Manager or his designee at the time of submission of each application for review or approval. If the amount of the fees, costs and expenses relating to the review, processing, inspection and regulation of such as estimated by the City Manager, based on information from City staff and the applicant, will exceed the flat fee and are likely either to be less than or more than the review deposit, then the City Manager may adjust the review deposit to the minimum extent supported by the City Manager's estimate. The City Manager may waive the requirement of a review deposit if, based upon information from City staff, the amount of the fees, costs and expenses relating to the review, processing, inspection and regulation of such as estimated by the City Manager will not exceed the flat fee.~~

~~(2) — No review of any application shall commence until the flat fee and review deposit, if applicable, are paid to the City. The review deposit shall be forwarded to the City Manager or his designee prior to the end of the second business day following the submittal of an application for review or approval. Any portion of the review deposit that exceeds the actual costs incurred in reviewing the application shall be returned to the applicant after completion of the matter for which the application was submitted, or after withdrawal of such application. No interest shall be paid on any review deposit.~~

~~(c) — *Project account.* Once an application has been submitted to the City and the applicable flat fee and review deposit have been collected, the City Manager or his designee shall establish an individual project account through which all fees, expenses and costs incurred by the City which are associated with the application will be monitored. The project account will be maintained throughout the entire review, processing, inspection, and regulation process until the later of:~~

- ~~(1) — Final action (after all appeal periods have ended) by the City Council has occurred with respect to the application;~~
- ~~(2) — No further involvement of the City staff is likely; or~~
- ~~(3) — The City has been paid all of the amounts.~~

~~Fees, costs and expenses for the City staff time directly related to the review, processing, inspection or regulation of an application or development and directly related expenses, including, but not limited to, legal, inspection and engineering costs will be charged to the project account.~~

~~(d) — *City invoices.*~~

- ~~(1) — The City Manager or his designee may periodically, up until, and shall prior to, the City's final approval of each application and the project for which a review deposit is required, total the costs, expenses and fees incurred by the City for such application and project and send a written invoice to the applicant for payment. The applicant shall have 20 calendar days from the date of the invoice to pay to the City the invoiced amount. Thereafter, if full payment is not received in the required time, the City Manager or his designee shall apply the review deposit toward payment of the invoiced amounts. If the total costs, expenses and fees incurred by the City for such application and project exceed the review deposit and full payment is not received in the 20 calendar days, the City Manager or his designee shall apply the review deposit to a portion of the invoiced amount and send a notice of nonpayment to the applicant and to all City staff associated with the application or project. The notice will instruct the City staff to cease all work relating to such application unless and until further notified by the City Manager or his designee.~~
- ~~(2) — If payment of the balance of the invoice is not received within 20 calendar days, then work by the City staff shall cease and will not be reactivated on any application or project. Neither building permits, development orders, certificates of completion nor certificates of occupancy or other permits or approvals will be issued with respect to such or the real property related to such until such time as all outstanding fees, costs and expenses are paid in full and a new review deposit for the application or project is paid to the City in an amount determined by the City Manager. Review of any future application or project with respect to the real property for which payment was not made will not be undertaken by the City until such time as all outstanding fees, costs and expenses due are paid in full and a new review deposit is paid to the City.~~
- ~~(3) — The deficiency owed to the city shall accrue interest per diem at the interest rate set pursuant to F.S. § 55.03 until paid. The amount of any such deficiency owed to the city shall be, together with interest and the costs of collection as hereinafter provided, the personal obligation of the property owner and shall be a continuing lien on the real property related to the application or project under review. Any subsequent or new owner of the real property related to the application or project shall take title subject to the obligations of the property owner and shall be jointly and severally liable for such obligations; provided, however, a property owner may not escape liability for the deficiency by abandonment of the application or project, withdrawal of such or sale of the real property with respect to which such application has been submitted. If the initial or subsequent invoices is/are not timely paid and the invoiced amount exceeds the amount of the review deposit, the city may take whatever legal means it deems appropriate to collect the deficiency, including, but not limited to, retaining the services of a collection agency or attorney, initiating legal proceedings for the collection thereof, recording a notice of lien, and foreclosing same in the same fashion as mortgage liens are foreclosed. To give the public notice of the deficiency, the City Manager may (but shall not be obligated to) record a notice of lien in the public records of the county, stating the description of the real property related to the application or project, the name of the owner of the real property and the amount then due and owing to the city.~~

- ~~(e) — *Required payments.* Payment of costs, expenses and fees incurred by the City is a requirement for the City's final approval of the application and project.~~
- ~~(f) — *Assessable costs, expenses and fees.* All costs, expenses and fees incurred by the City relating directly to the review, processing, inspection, or regulation of an application, or project, including but not limited to, the time of City staff, agents, engineers, attorneys, surveyors, consultants, and entities providing services to the City by contract, as well as those relating directly to surveying, legal and engineering for an application or project shall be assessed to the applicant. City employees' hourly rates shall be determined by the City Manager based on actual costs to the City, accounting for employees' salaries, health care expenses, payroll taxes, benefits, training costs, and other employee costs to the City. The fees, costs and expenses for the City's contract consultants including but not limited to the City's engineers, attorneys, and surveyors shall be invoiced to the applicant at the same rate charged to the City for the service rendered. Hourly rates for work performed by county employees on behalf of the City shall be determined by the county's contract with the City. To the extent that the fees, costs and expenses required under this section are assessed and paid, pursuant to other provisions of the City Code, assessment and payment under this section shall not occur.~~
- ~~(g) — *Fee collection and schedule.*~~
- ~~(1) — The Comprehensive Plan amendment fee schedule, Land Development Code application fee schedule and zoning ordinance fee schedule attached hereto as exhibits "A", "B" and "C" respectively, as later may be amended, establish the flat fee for the matters referenced therein. Such flat fees in addition to any review deposit required shall be paid by the applicant and delivered to the City Manager or his designee upon submittal of any application to the City. The City Manager or his designee shall ensure the required flat fee is collected, and, if applicable, the review deposit (collectively referred to as "development review fee") is posted to an account for said application. The City Manager or his designee, shall receive all applications with proof of payment of the flat fee and review deposit, if applicable.~~
- ~~(2) — Should the City Manager or his designee determine that the required review deposit for an application is inadequate to cover the reasonably anticipated fees, costs and expenses to be required by the City, the City Manager or his designee shall increase the minimum deposit to the minimum extent necessary to cover such reasonably anticipated fees, costs, and expenses.~~
- ~~(h) — *Objections; appeal.* Any objection to any invoice or to any matter set forth in this section of the Code must be set forth in writing, addressed and delivered to the City Manager on or within ten calendar days of the date of the relevant invoice. In the event the City Manager denies the objection, the applicant shall have ten calendar days after the date of the City Manager's decision to file an appeal of such decision with the City Council. All objections and appeals shall set forth in detail the reasons and evidence upon which the objection and appeal are based. Failure of the applicant to establish beyond a preponderance of the evidence that an invoice, decision or other matter objected to or appealed is not appropriate and is not based upon competent substantial evidence, shall result in a denial of the objection and appeal or reconsideration.~~
- ~~(i) — *Attorney's fees in the event of failure to pay review costs.* In the event the City is required to take legal action to enforce this Code, then the City shall be entitled to recover from the applicant all costs and expenses incurred, including but not limited to its reasonable attorneys' fees, paralegal fees and other costs and expenses, whether incurred prior to, during or subsequent to court proceedings or on appeal.~~
- ~~(j) — *Change of ownership.* An applicant shall provide prompt written notice to the City Manager within 20 calendar days in the event of a change in ownership of all or a portion of a lot, tract, or parcel of real property with respect to which an application, or project is pending before the City. Such notice shall include the name, address and phone number of the new owner and a legal description of the lot, tract or parcel of real property now owned by the new owner. Any such new owner shall not be entitled to utilize or draw upon any review deposit previously paid to the City by the original applicant, shall be liable to the City for all fees, costs and expenses related to the lot, tract or parcel of real property which arise subsequent to the date the new owner acquires title to such real property, and may be required by the City to pay a separate review deposit in the same manner as a new application in which case a separate project account will be opened in the name of the new owner or the new owner's authorized~~

~~agent. If a separate review deposit is required, no work shall be undertaken by the City with respect to the lot, tract or parcel of real property then owned by the new owner until a separate review deposit is paid to the City. Until such time as the City receives such written notice of a change in ownership, the original applicant shall be jointly and severally liable to the City for all fees, costs and expenses associated with the application or project which may subsequently be incurred by the City in connection with the activities of the new owner; provided, however, that upon receipt by the City of such a notification of change of ownership, the original applicant shall not be liable to the City for any further fees, costs and expenses incurred by the City which arise solely out of the application or project of the new owner and the new owner shall be solely liable to the City for all such fees, costs and expenses associated with the application or project activities of the new owner or the new owner's authorized agent subsequent to the date of receipt by the City of such notification.~~

~~a. (k) — Agreement to be bound by this section. Execution of an application~~A transportation impact analysis report shall be required, unless waived by the City Traffic Engineer, for any use which, according to the Institute of Transportation Engineers Trip Generation Manual, latest edition, rates published by the Florida Department of Transportation or rates documented by study and agreed to prior to use by the City Traffic Engineer, will generate the following:

~~1,000 or more two-way daily external trips on a weekday; or,~~

~~100 or more peak hour two-way external trips.~~

~~Developments generating less than 1,000 two-way daily external trips or 100 peak hour two-way external trips may also be required to submit a TIA if determined necessary by the Development Review Committee and/or the City Traffic Engineer.~~

~~b. The applicant submitting the TIA for City approval shall adhere to and be responsible for the provision of all notification requirements, and those associated costs, as specified within the adopted TIA and city development and level of service standards.~~

~~(8) Recreation LOS. The availability and capacity of parks and recreation system shall be as provided in this Code and the Comprehensive Plan.~~

~~(Ord. No. 01-99, § 1(209), 11-3-1999)~~

Sec. 3.15. Public school capacity.

~~(a) Adequate school capacity required for permit approval. The City shall coordinate with VCPS to determine if adequate school capacity exists and to determine if mitigative strategies are needed to accommodate an increase in residential density. In making such determination, the City is entitled to rely on VCPS's certification of adequate or inadequate capacity as competent, substantial evidence that the affected public school or schools can or cannot accommodate the additional students resulting from the increase in residential density. However, the following exceptions to this section apply:~~

~~(1) This section shall not apply to a development permit or Comprehensive Plan amendment with a de minimis impact. Such a development permit, its functional equivalent, or Comprehensive Plan amendment shall be presumed not to create an adverse impact on any affected public school.~~

~~(2) This section shall not apply to a development permit, Comprehensive Plan amendment, or administrative rezoning that does not increase actual residential density, but merely makes the zoning district or category representative of the preexisting development and preexisting residential density in the area.~~

~~(3) The City may, with written approval of VCPS and the consent of the applicant, elect to defer consideration of school capacity from adoption of Comprehensive Plan amendment for a property until such time as the City considers a development permit for the property.~~

- (4) If no interlocal agreement is yet in place between the City and the school board as provided for in this section, or VCPS otherwise fails to provide the City with school capacity reports or other information, then the City may base its determination of the adequacy of school capacity on the best available information and data as procured from and provided by the school board, applicant, and/or other credible sources.
- (b) *Interlocal agreement; minimum requirements.* The City shall negotiate with the school board to reach an interlocal agreement regarding school capacity, which shall include, at a minimum, the following:
- (1) All the elements of an interlocal agreement required by F.S. 163.3177(6)(h)1. and 2., 163.3177(2), and 163.3180(6).
 - (2) The school board shall respond to the City's request for a school capacity report within an agreed-upon time period.
 - (3) If the school capacity report indicates that there is insufficient capacity, and the applicant requesting the development permit or Comprehensive Plan amendment proposes a capacity enhancement agreement, the school board shall approve or deny the capacity enhancement agreement within an agreed-upon time period. **Approval by the school board of a capacity enhancement agreement shall constitute its certification that sufficient school capacity will exist to handle the additional students generated by the proposed development permit or Comprehensive Plan amendment and that such capacity is based on an educationally sound plan.**
 - (4) The capacity enhancement agreement shall take into account the time at which school capacity will be available.
 - (5) The school board shall use funds collected pursuant to a capacity enhancement agreement to provide school capacity to serve the students of the City.
 - (6) A school board certification of insufficient school capacity when an applicant has made a capacity enhancement proposal shall require the school board to demonstrate that it has considered options to mitigate the impacts created by issuance of a development permit or approval of a Comprehensive Plan amendment.
 - (7) That any provisions within the agreement for certification of school capacity will be superseded by any valid, future, countywide interlocal agreement for school concurrency which is also applicable within the City and adopted pursuant to general law, but only superseded to the extent of direct conflicts between the agreements.
- (c) *Multijurisdictional participation.* The county, along with the City and the school board, may be a party to the interlocal agreement regarding school capacity. Any other municipality within the county may request to be a party to the interlocal agreement regarding school capacity. To the extent that negotiations with individual cities are successful, they may be parties to the interlocal agreement regarding school capacity. To the extent that negotiations with individual municipalities, as well as the county, are unsuccessful, they will not be parties to the interlocal agreement regarding school capacity.
- (d) *Effect of failure to join; optional parties.* The failure of any other municipality or local government, including the county, to enter into the interlocal agreement regarding school capacity will not prevent the execution and implementation of the interlocal agreement regarding school capacity between the City and the school board.
- (e) *Effect of school board's failure to join or provide timely certification.* This section recognizes the autonomy of the county school board as a sovereign entity. The provisions of this section shall be effective immediately upon the City's adoption of the ordinance creating said section. In the event the county school board and the City do not approve the interlocal agreement referenced in subsection (c) of this section, or the county school board fails to timely provide the City with school capacity

reports or other information contemplated by this section, the City shall make the determination on school capacity required by this section based on information the City deems sufficient.

- (f) Effect of implementation of countywide school concurrency. This section will be superseded by any valid, countywide, interlocal agreement for school concurrency adopted by this City as required by general law, but only to the extent that said school concurrency agreement conflicts with this section.
- (g) Effect of maximum densities under the Comprehensive Plan. The maximum density established by the Comprehensive Plan Future Land Use Map, or an amendment thereto does not absolve a development permit applicant from meeting this section. For the issuance of development permits, the City may require and approve less density than the maximum density established by the Comprehensive Plan Future Land Use Map on the basis of lack of public school capacity.

(Ord. No. 28-06, § I, 12-6-2006)

Sec. 3.16. Proportionate fair-share program.

- (a) Purpose. The purpose of this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair-share program, as required by and in a manner consistent with F.S. § 163.3180(5) and the Transportation Impact Analysis (TIA) Guidelines established by the River to Sea Transportation Planning Organization adopted on June 22, 2016, as amended.
- (b) Applicability. The proportionate fair-share program shall apply to any development project in the city where the project's traffic impact study or the city's traffic engineer determines that there is insufficient capacity on one or more roadway segments to satisfy the development project's transportation concurrency requirements including transportation facilities maintained by the Florida Department of Transportation (FDOT) or Volusia County that are relied upon for transportation concurrency determinations, except those developments subject to the Mobility Fee Area. The proportionate fair-share program does not apply to developments of regional impact (DRIs) using proportionate fair share under F.S. § 163.3180(5), or to developments exempted from concurrency under F.S. § 163.3180.
- (c) General requirements.
 - (1) An applicant whose project meets the criteria of subsection (b) of this section may choose to satisfy transportation concurrency requirements by making a proportionate fair-share contribution, pursuant to the following requirements:
 - a. The proposed development is consistent with the Comprehensive Plan, applicable land development regulations, and the adopted Long-Range Transportation Plan (LRTP) of the River to Sea Transportation Planning Organization, as amended.
 - b. The five-year schedule of capital roadway improvements in the city's Capital Improvements Element (CIE) of the City's Comprehensive Plan includes one or more transportation improvements that, upon completion, will provide sufficient capacity for the deficient segments to accommodate the traffic generated by the proposed development.
 - (2) The City may choose to allow an applicant to satisfy transportation concurrency for a deficient roadway segment as identified by the City through the proportionate fair-share program by the developer contributing to an improvement that, upon completion, will create additional capacity on the deficient segment sufficient to accommodate the additional traffic generated by the applicant's proposed development even if the improvement project for the deficient segment is not contained in the five-year schedule of capital improvements in the CIE where:
 - a. The DeBary City Council holds an advertised public hearing to consider the proportionate share agreement and corresponding future changes to the five-year CIE;

- b. The City adopts, by ordinance, an amendment adding the improvement to the five-year schedule of capital improvements in the CIE. To qualify for consideration under this section, the proposed improvement must be reviewed by the DeBary City Council, and determined to be consistent with the Comprehensive Plan, and in compliance with the provisions of this section.
- c. Any improvement project proposed to meet a developer's fair-share obligation must meet design standards of the City and County for arterials and those of the Florida Department of Transportation (FDOT) for the state highway system.

(d) Application process.

- (1) Upon identification of a lack of capacity to satisfy transportation concurrency, an applicant may choose to satisfy transportation concurrency through the proportionate fair-share program by entering into a proportionate fair-share agreement with the city.
- (2) Prior to submitting a proportionate fair-share agreement, the applicant shall attend a preapplication meeting with city planning and traffic engineering staff to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. Volusia County and the Florida Department of Transportation (FDOT) will be notified and invited to participate in the pre-application meeting.
- (3) Proportionate fair-share agreements shall include the following exhibits:
 - a. Name, address, and phone number of owner(s), developer and agent;
 - b. Property location, including parcel identification numbers;
 - c. Legal description and survey of property;
 - d. Project description, including type, intensity, and amount of development;
 - e. Phasing schedule, if applicable;
 - f. Description of requested proportionate fair-share mitigation method(s);
 - g. Copy of concurrency application;
 - h. Copy of the project's traffic impact statement (TIS) or traffic impact analysis (TIA); and
 - i. Location map depicting the site and affected road network.
- (4) Within ten (10) business days, city planning staff shall review the application and certify that the application is sufficient and complete. If an application is determined to be insufficient, incomplete, or inconsistent with the general requirements of the proportionate fair-share program as indicated in subsection (c) of this section, then the applicant shall be notified in writing of the reasons for such deficiencies within ten business days of submittal of the application. If the applicant does not remedy such deficiencies within 30 days of receipt of the written notification, then the application shall be deemed abandoned. The City Manager may, in his/her discretion, grant an extension of time not to exceed 60 days to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to affect a cure.
- (5) Pursuant to F.S. § 163.3180(5), proposed proportionate fair-share mitigation for development impacts to facilities on the strategic intermodal system (SIS) requires the concurrence of the FDOT. If an SIS facility is proposed for proportionate share mitigation, the applicant shall submit

evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.

- (6) When an application is deemed sufficient, complete, and eligible, a proposed proportionate fair-share obligation and binding agreement will be prepared by the city, or the applicant with direction from the city, and delivered to the appropriate parties for review. Copies of the agreement shall be provided to FDOT and Volusia County for any fair-share mitigation related to their respective thoroughfare facilities.
- (7) The city shall notify the applicant regarding the date of the DeBary City Council meeting at which the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the DeBary City Council.

(e) Determining proportionate fair-share obligation.

- (1) Proportionate fair-share mitigation for concurrency impacts may include, separately or collectively, private funds, contributions of land, and construction and contribution of facilities as provided in F.S. § 163.3180(5).
- (2) A development shall not be required to pay more than its proportionate fair share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ based on the form of mitigation as provided in F.S. § 163.3180(5).
- (3) The methodology used to calculate an applicant's proportionate fair-share obligation shall be as provided for in F.S. § 163.3180(5)(h)2.a, as follows:
- a. The number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

This methodology is expressed by the following formula:

Proportionate Fair Share = $|Ms [((Development\ Trips_i) \div (SV\ Increase_i)] \times Cost_i$] (Note: In the context of the formula, the term "cumulative" does not include a previously approved stage or phase of a development.)

Where: $|Ms$ = Sum of all deficient links proposed for proportionate fair-share mitigation for a project.

Development $Trips_i$ = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;

SV $Increase_i$ = Service volume increase provided by the eligible improvement to roadway segment "i";

Cost $_i$ = Adjusted cost of the improvement to segment "i". Cost shall consist of all improvements and associated costs, including design, right-of-way acquisition, planning, engineering, inspection, and physical development costs, directly associated with construction at the anticipated cost in the year that construction will occur.

- (4) For purposes of determining proportionate fair-share obligations, the city shall determine improvement costs based upon the actual and/or anticipated costs of the improvement in the year that construction will occur. The City Development Engineer will determine these costs.

- (5) If the city has accepted an improvement project proposed by the applicant, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the City Development Engineer or other method approved by the City Manager.
- (6) If the city has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the nonsite-related right-of-way shall be valued on the date of the dedication at 120 percent of the most recent assessed value by the Volusia County Property Appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the city and at no expense to the city. Said appraisal shall assume no approved development plan for the site. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the city at no expense to the city. If the estimated value of the right-of-way dedication proposed by the applicant (based on a city-approved appraisal) is less than the city estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. If the estimated value of the right-of-way dedication proposed by the applicant (based on a city-approved appraisal) is more than the city estimated total proportionate fair-share obligation for the development, then the city must pay the difference.

(f) Proportionate fair-share agreements.

- (1) Upon executing a proportionate fair-share agreement (agreement) and satisfying other concurrency requirements, an applicant shall receive a certificate of concurrency (or its successor upon amendment of initial concurrency regulations). Should the applicant fail to apply for building permits or final plat within the timeframe provided for in the city's concurrency certificate, then the project's concurrency vesting shall expire, and the applicant shall be required to reapply. Once a proportionate share payment for a project is made and other impact fees for the project are paid, no refunds shall be given. All payments, however, shall run with the land.
- (2) **Payment of private funds, contributions of land, and construction and contribution of facilities as provided in F.S. § 163.3180(5) of proportionate fair-share requirements for a project and shall be due and must be paid or completed prior to the issuance of a building permit or recording of a final plat. If payment is submitted more than 12 months from the date of issuance of the certificate of concurrency, then the proportionate fair-share mitigation shall be recalculated at the time of payment and shall be subject to approval of the City Development Engineer.**
- (3) All developer improvements accepted as proportionate fair share contributions must be completed within three years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement and be accompanied by a performance bond that is sufficient to ensure the completion of all required improvements. It is the intent of this section that any required improvements be completed within three years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement.
- (4) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must occur prior to the issuance of a building permit or approval of a final plat.
- (5) Any requested change to a development project subsequent to issuance of a development order shall be subject to additional proportionate fair-share contributions to the extent the change would increase project costs or generate additional traffic that would require mitigation.
- (6) Applicants may withdraw from a proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the city are nonrefundable.

(7) The city may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

(g) Appropriation of fair-share revenues.

(1) Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the city's Capital Improvements Element, or as otherwise established in the terms of the proportionate fair-share agreement. Proportionate fair-share revenues may also be used as the 50-percent local match for funding under the FDOT Transportation Regional Incentive Program (TRIP).

(2) In the event a scheduled facility improvement is removed from the CIE, then the proportionate fair-share revenues collected for its construction may be applied toward the construction of alternative improvements within that same corridor or sector where the alternative improvement will mitigate the impacts of the development project on the congested roadway(s) for which the original proportionate fair share contribution was made.

(Ord. No. 27-06, § I, 12-6-2006)

Division 4. DEVELOPMENT ORDERS, PLATTING & SITE PLANS

Sec. 3.17. Development orders, development permits, approval authority, installation of improvements, public services and facilities agreements, and appeals.

(a) Purpose. The purpose of this section is to:

(1) Provide for the applicability, approval and issuance of development orders and development permits to ensure that all of the provisions of this Code are complied with, to ensure the installation of required improvements;

(2) Provide for public services, road maintenance agreements and facilities agreements; and

(3) Provide an appeal process.

(b) Applicability. No person shall undertake the development of land in the City except pursuant to a valid development order or development permit issued under this Code unless specifically exempted as provided by this Code. All development shall meet the requirements of this Code prior to the approval and issuance of any development order or development permit, unless specifically exempted from the requirements of this Code by provisions set forth herein, or one or more such requirements are waived in accordance with provisions set forth herein.

(c) Approving authority. The Development Review Committee shall make a recommendation to City Council for approval, approval with conditions or denial of all applications for which the City Council makes a final decision. The Development Review Committee shall have authority to approve, approve with conditions or deny a development order for final site plan, overall development plan, and preliminary plat and construction plan meeting the definition of this code except as otherwise provided herein. All development order approvals and approvals with conditions for final site plans, overall development plans, and preliminary plats and construction plans by the Development Review Committee must have a final signature of approval by the City Manager or the GMD before such are deemed issued. Final site plans, overall development plans, and preliminary plat and construction plans shall not require City Council approval if a development order on such is issued after approval or approval with conditions by the Development Review Committee unless an appeal of a Development Review Committee decision is brought in accordance with the appeal provisions in this Code. The Development Review Committee, on their own motion and for cause, may continue consideration of an application to a subsequent meeting.

(d) Issuance of development orders and development permits. A development order, upon issuance, shall authorize continuation to the next step in a development review process. A development order,

upon issuance, shall authorize issuance of appropriate development permits. A development permit, upon issuance, shall authorize commencement of construction of the work covered by the scope of the permit. No development or construction shall commence unless a valid development order or development permit has been issued as provided by this Code. All development or construction commenced pursuant to a valid development order or development permit shall be completed in a manner which is consistent with the approved development order or development permit.

- (e) Installation of improvements. All improvements required to be installed, constructed or provided by the developer as a condition to the approval of a development order shall be installed and completed or guaranteed as specified in section 3.33.
- (f) Public services, road maintenance agreements and facilities agreements. In order to further the purposes of this Code regarding the provision of public services, road maintenance and facilities to a proposed development, the City shall enter into an agreement with the developer of the proposed development which will provide a means to:
- (1) Ensure the certainty of providing public services and facilities for the proposed project;
 - (2) Ensure the provision of public services and facilities to other developments in the vicinity of the proposed development;
 - (3) Allocate the costs of providing public services and facilities;
 - (4) Allocate the capacities of the public services and facilities;
 - (5) Determine the responsibilities for construction and maintenance of the public services and facilities.
 - (6) Provide a road maintenance agreement for all new development projects. The agreement shall be provided at the Preliminary Plat and Construction Plan and Final Site Plan process. The agreement shall be approved by the City Council when the development order is approved.

~~(Ord. shall constitute the consent and agreement of the applicant and the owner if the application is being executed by the owner's authorized agent to be bound by the provisions of this section.~~

~~(Ord. No. 02-06, § 1, 3-1-2006; Ord. No. 12-10, § 2, 10-20-2010)~~

Chapter 2 – PROCEDURES

~~Sec. 2-1. – Development plan required.~~

- ~~(a) In certain situations, a development plan or site plan shall be approved by the City Council prior to the issuance of a development permit. Requirements and procedures for submittal and review of a development plan shall be as set forth for a site plan.~~
- ~~(b) It is the intent of this Code that review of a development plan may occur concurrently with the review of a request for rezoning, special exception, variance, or other approval, and that where possible, related requests shall be considered by the City Council at the same time.~~

~~(Ord. No. 01-99, § 1(201), 11-3-1999)~~

~~Sec. 2-2. – No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. 03-16, Exh. A, 1-20-2016)~~

Sec. 3.18. Application review requirements.

An application for a development order shall be reviewed by the Development Review Committee in accordance with 3.4. No application for a development order shall be approved which does not comply with the following:

(a) The City Comprehensive Plan;

(b) The City Land Development Code.

Sec. 3.19. Criteria for review of a development plan.

In order to meet the purpose of development plan review and the provisions of this Code, the following factors will be considered by the City Council in the review and approval of a development plan:

- (a) (1)—Plans must meet all Land Development Code requirements. Any variances or waivers necessary must be identified and approved prior to or in conjunction with the approval of the development plan.
- (b) (2)—The relationship the proposed development would have to adjacent properties, the impact the development would have on the immediate neighborhood, and the compatibility of the proposed development with the City's adopted Comprehensive Plan, including any development standards contained therein.
- (c) (3)—Ingress and egress to the site, compatibility with road improvement plans, vehicular and pedestrian safety, traffic flow and traffic control on public streets, maneuverability of vehicles, conflict points, provisions for service drives, adequacy of parking and loading areas (including number of parking spaces), servicing of utility areas by vehicles, access by emergency vehicles, and cross visibility.
- (d) (4)—The method of storm drainage on the property and the effect of proposed site alterations on drainage of adjacent properties, public drainage systems, the retention of stormwater, drainage to landscaped areas, the water table, flood hazard areas, and protection of water bodies from pollution.
- (e) (5)—Preservation of exceptional tree specimens and as many healthy trees as possible, the location and quality of landscaped and open areas, and the preservation or installation of buffer and screening areas.
- (f) (6)—Siting of and efforts to provide open spaces as well as recreational facilities for residents of the development where appropriate.
- (g) (7)—Utility tie-in locations, existing water and sewer facilities, offsite utility improvements, impact on water and sewer treatment capacities, supply capabilities, and pressure, and the necessity for and location of fire hydrants on- or off-site ~~and availability of reclaimed water for new development.~~
- (h) (8)—Internal circulation and parking with reference to pedestrian and vehicular safety, maneuverability of vehicles, prevention of points of vehicular conflict, wheel chair ramps, marking of drives and parking bays, cross visibility, drop-off points, adequacy of parking count, parking spaces for the handicapped, and accessibility of firefighting equipment and personnel, applying the infrastructure, public improvement, and utility requirements of this Code.
- (i) (9)—General site arrangement, amenities, and convenience with particular reference to insuring that appearance and general layout of the proposed development will be compatible and harmonious with properties in the general area and will not be so at variance with other development so as to cause substantial depreciation of property values.
- (j) (10)—The use and development depicted in the development plan shall meet all City minimum environmental standards as set forth in this Code.
- (k) (11)—Other standards appropriate to the use and scale of the development proposed.

(Ord. No. 01-99, § 1(203), 11-3-1999; ~~Ord. No. 07-17, § 2(Exh. A), 8-2-2017~~)

~~Sec. 2-3. – Previously approved planned developments.~~

~~It is the intent of this Code that the completion of planned developments previously approved under the regulations of the county shall continue to be administered under the approved standards unless~~

changes are requested. Any subsequent major revisions to the terms and conditions will be made following the provisions of this Code, including but not limited to the procedures for minor and major revisions set forth in this Code.

~~(Ord. No. 01-99, § 1(204), 11-3-1999)~~

~~Sec. 2-4.-)~~

Sec. 3.20. Platting.

It is the intent of this Code that the subdivision plat review process and platting process shall meet the requirements of F.S. ~~ch.~~ 177, Part 1.

- (1) ~~_____~~ Applicability. These provisions shall apply to the review of any plat of subdivisions of any land within the City, which plat is to be recorded in the public records of the ~~county~~ County. Submission, review, and approval of a plat shall be required for the division of any lot or parcel of land. Previously recorded and unrecorded subdivisions are hereby approved except as determined not exempt or vested by the procedures set forth in these regulations. Approval for the realignment or change of any lot or boundary shall be as set forth by these regulations.
- (2) ~~_____~~ Submittal requirements. Submittal and review of preliminary and final subdivision plats shall be as provided in this Code.
- (3) ~~_____~~ Procedure. Prior to recording of any final subdivision plat, such plat shall be submitted to the City Council for approval. The plat shall be reviewed and approved by the ~~City Manager~~ Development Review Committee as meeting all applicable requirements of this Code and other regulations. The Mayor shall then sign the plat to indicate that it has been approved.

~~(Ord. No. 01-99, § 1(206), 11-3-1999)~~

~~Sec. 2-5.- Concurrency management system.~~

~~(a) General provisions.~~

~~(1)~~

~~(1) The purpose of the concurrency management system is to meet the legal requirement that no development be permitted unless the public facilities necessary to support the development are in place with adequate capacity to serve the development or will be in place when needed by the development.~~

~~(1) (2) It is the intent of this Code that the provisions of this section will not be applied in such a way as to deprive the owner of property from the reasonable beneficial use thereof.~~

~~(b) Procedure for designating nondevelopment areas.~~

- (1) ~~At the time of his presentation of the proposed annual budget and annual capital budget, the City Manager shall report to the City Council any existing or projected deficiencies in level of service standards for necessary facilities as designated in state law and in the Comprehensive Plan.~~
- (2) ~~If a provision is not added to the annual capital budget to remove the deficiency, the area affected will be designated by an overlay on the zoning map as a "nondevelopment area." The procedure for such designation shall be the same as for any other amendment to the zoning map.~~
- (3) ~~Designation as a nondevelopment area shall be effective during the fiscal year and shall expire at the end of the fiscal year. If the condition persists during the subsequent fiscal year, the nondevelopment area shall be redesignated in the same manner.~~

~~(c) Regulations applicable within nondevelopment areas.~~

- ~~(1) No permit for construction will be issued within any designated nondevelopment area, except as follows:
 - ~~a. Permits for nonresidential construction may be issued if the nondevelopment status of an area is exclusively attributable to deficiency of recreation facilities serving the area.~~
 - ~~b. Permits may be issued for construction if a project to remove the identified deficiency is included in the annual capital budget and the project has received all appropriate permits for construction.~~
 - ~~c. Permits for construction of infrastructure or of any facility or use that will not increase existing deficiencies may be issued.~~~~
- ~~(2) The City Council may provide that a permit may be issued where failure to allow development will deny the owner any reasonable beneficial use of his property. In such case, the City Council will consider any modification or reduction of the size of the project or other techniques necessary to mitigate additional demand on deficient facilities.~~
- ~~(3) Permits may be issued for construction within an approved Planned Unit Development (PUD) consistent with the development plan (including the development timetable). Any substantial modification of a PUD will be reviewed to determine whether the change affects demand on facilities, and may only be approved in a nondevelopment area if there is no change or no increase in the demand on deficient facilities.~~
- ~~(a)(d) Determination and offsetting of impact on public services and facilities of the City.~~
 - ~~(1) Procedure. During the review of a preliminary plat or final site plan for a development order, a determination will be made by the City according to policies set out in the Comprehensive Plan and this Code as to the environmental, physical and fiscal impact of the development on the public services and facilities of the City as set forth in this section and the measures necessary to offset said impacts.
 - ~~a. a. The determination of impact will use the best available information and will be based upon the maximum impact of the proposed development as generated from the submitted application for a development order. The applicant is encouraged to provide any information in addition to required submittals that will assist in more accurately determining impact.~~
 - ~~a. b. The measures necessary to offset the impact of the proposed development shall be as set out in this section.~~~~
 - ~~(2) Availability of the stormwater management system. The proposed development shall be designed to provide for the construction and maintenance of a stormwater management system, which conforms to the standards of division 7, article II of chapter 4, the Comprehensive Plan, and any other governmental agency having jurisdiction over the area.~~
 - ~~(3) Availability of the potable water system. The availability and capacity of the potable water system shall be as provided in this Code.~~
 - ~~(4) Availability of the sanitary sewer system. The availability and capacity of the sanitary sewer system shall be as provided in this Code.~~
 - ~~(5) Tree protection measures. The existing trees and tree coverage of a proposed development shall be adequately maintained and protected through consideration, to the maximum extent possible, of the standards and requirements of article IV of chapter 5.~~
 - ~~(6) School system sites in new residential development. In order to provide for lands to be used to meet the need for school sites created by new residential development, a developer may dedicate land to the county school board of suitable size, dimension, soil type, topography and general character to meet the need for school sites created by the development.~~
 - ~~(7) Availability of solid waste facilities. The availability and capacity of solid waste facilities shall be as provided in this Code.~~

- ~~(8) — Traffic impact analysis methodology and requirements. The city hereby adopts, as an administrative requirement, the submission of a traffic impact analysis for those development applications which are subject to concurrency review. The administrative rule relating to the required submission, which is hereby adopted as reference as fully set forth herein, as the same may be amended from time to time, is the document entitled *Transportation Impact Analysis (TIA) Guidelines — For Development Applications Requiring a TIA in Volusia County, Florida, Dated May 22, 2007* as approved by the Volusia County Metropolitan Planning Organization. The applicant for all development applications subject to concurrency review shall submit a traffic impact analysis using the aforementioned and most current version of the TIA Guidelines.~~
- ~~a. — Thresholds for traffic impact analysis report. A transportation impact analysis report shall be required, unless waived by the City Traffic Engineer, for any use which, according to the Institute of Transportation Engineers Trip Generation Manual, latest edition, rates published by the Florida Department of Transportation or rates documented by study and agreed to prior to use by the City Traffic Engineer, will generate in excess of 1,000 trips per day.~~
- ~~b. — The applicant submitting the TIA for city approval shall adhere to and be responsible for the provision of all notification requirements, and those associated costs, as specified within the adopted TIA and city development standards.~~
- ~~(9) — Availability of reclaimed water distribution lines. The availability of reclaimed water main distribution line connection and provision of dry lines in all new residential and non-residential development.~~

(Ord. No. 01-99, § 1(209), 11-3-1999; Ord. No. 13-16, § 2(Exh. A), 1-4-2017; Ord. No. 07-17, § 2(Exh. A), 8-2-2017)

Sec. 2-6. — Public school capacity.

- ~~(a) — Definitions. For the purposes of this section, the following terms shall have the meanings set forth in this subsection, unless otherwise indicated by the context:~~

~~*Administrative rezoning* shall mean and refer to a rezoning initiated by the City.~~

~~*Applicant* shall mean and refer to the individual or entity submitting a request for a development permit or Comprehensive Plan amendment.~~

~~*Capacity enhancement agreement* shall mean and refer to an agreement between the school board and an applicant providing for sufficient capacity to accommodate the additional students that will be generated by a development permit or Comprehensive Plan amendment that may also certify to the City that the school board will have sufficient capacity to accommodate the additional students generated by approval of the development permit or Comprehensive Plan amendment.~~

~~*City* shall mean and refer to the City municipal government.~~

~~*City of DeBary* shall mean and refer to all of the geographical area contained within the incorporated municipal boundaries of the City.~~

~~*Comprehensive plan amendment* shall mean and refer to a change made to the City's Comprehensive Plan as approved pursuant to general law.~~

~~*De minimis impact* shall mean and refer to a development permit or Comprehensive Plan amendment that would, if approved, ultimately result in a net increase of less than ten residential dwelling units. However, a development permit or Comprehensive Plan amendment for a property shall not be deemed to have a de minimis impact if, when the impact from a development permit or Comprehensive Plan amendment for such property is aggregated with a development permit or Comprehensive Plan amendment for adjacent property or other properties with a common or related development plan or common or related owner, the increase in the number of residential dwelling units equals or exceeds ten residential dwelling units.~~

~~Development permit shall mean and refer to any building permit, zoning permit, subdivision approval, preliminary subdivision approval, overall development plan, development agreement, rezoning, certification, special exception, variance, or any other official action of the City having the effect of permitting the development of land or the functional equivalent thereof.~~

~~Interlocal agreement regarding school capacity shall mean and refer to an agreement entered into by the school board and the City that recognizes the school board's process for determining the availability of school capacity and the roles and responsibilities of the respective parties in determining and resolving school capacity issues and the process for creating capacity enhancement agreements.~~

~~Residential dwelling unit shall mean and refer to a single-family or multifamily dwelling unit, attached or detached dwelling, house of conventional construction, mobile home, manufactured home, and any other structure used for permanent residence or for dwelling purposes, regardless of whether occupied by an owner or tenant.~~

~~School board shall mean and refer to the School Board of Volusia County, Florida, the governing body of county public schools.~~

~~VCPS shall mean and refer to the Volusia County Public Schools, the county school district.~~

~~(a) (b) Adequate school capacity required for permit approval. The City shall not approve a development permit or Comprehensive Plan amendment if the City determines that adequate school capacity does not exist and such inadequacy is not mitigated to accommodate an increase in residential density. In making such determination, the City is entitled to rely on VCPS's certification of adequate or inadequate capacity as competent, substantial evidence that the affected public school or schools can or cannot accommodate the additional students resulting from the increase in residential density. However, the following exceptions to this section apply:~~

~~(1) (1) This section shall not apply to a development permit or Comprehensive Plan amendment with a de minimis impact. Such a development permit, its functional equivalent, or Comprehensive Plan amendment shall be presumed not to create an adverse impact on any affected public school.~~

~~(1) (2) This section shall not apply to a development permit, Comprehensive Plan amendment, or administrative rezoning that does not increase actual residential density, but merely makes the zoning district or category representative of the preexisting development and preexisting residential density in the area.~~

~~(1) (3) The City may, with written approval of VCPS and the consent of the applicant, elect to defer consideration of school capacity from adoption of Comprehensive Plan amendment for a property until such time as the City considers a development permit for the property.~~

~~(1) (4) If no interlocal agreement is yet in place between the City and the school board as provided for in this section, or VCPS otherwise fails to provide the City with school capacity reports or other information, then the City may base its determination of the adequacy of school capacity on the best available information and data as procured from and provided by the school board, applicant, and/or other credible sources.~~

~~(a) (c) Interlocal agreement; minimum requirements. The City shall negotiate with the school board to reach an interlocal agreement regarding school capacity, which shall include, at a minimum, the following:~~

~~(1) (1) The school board shall respond to the City's request for a school capacity report within an agreed-upon time period.~~

~~(2) If the school capacity report indicates that there is insufficient capacity, and the applicant requesting the development permit or Comprehensive Plan amendment proposes a capacity enhancement agreement, the school board shall approve or deny the capacity enhancement agreement within an agreed-upon time period. Approval by the school board of a capacity~~

~~enhancement agreement shall constitute its certification that sufficient school capacity will exist to handle the additional students generated by the proposed development permit or Comprehensive Plan amendment and that such capacity is based on a financially feasible and educationally sound plan.~~

~~(1)(3) The capacity enhancement agreement shall take into account the time at which school capacity will be available.~~

~~(1)(4) The school board shall use funds collected pursuant to a capacity enhancement agreement to provide school capacity to serve the students of the City.~~

~~(1)(5) A school board certification of insufficient school capacity when an applicant has made a capacity enhancement proposal shall require the school board to demonstrate that it has considered options to mitigate the impacts created by issuance of a development permit or approval of a Comprehensive Plan amendment.~~

~~(1)(6) That any provisions within the agreement for certification of school capacity will be superseded by any valid, future, countywide interlocal agreement for school concurrency which is also applicable within the City and adopted pursuant to general law, but only superseded to the extent of direct conflicts between the agreements.~~

~~(a)(d) *Multijurisdictional participation.* The county, along with the City and the school board, may be a party to the interlocal agreement regarding school capacity. Any other municipality within the county may request to be a party to the interlocal agreement regarding school capacity. To the extent that negotiations with individual cities are successful, they may be parties to the interlocal agreement regarding school capacity. To the extent that negotiations with individual municipalities, as well as the county, are unsuccessful, they will not be parties to the interlocal agreement regarding school capacity.~~

~~(a)(e) *Effect of failure to join; optional parties.* The failure of any other municipality or local government, including the county, to enter into the interlocal agreement regarding school capacity will not prevent the execution and implementation of the interlocal agreement regarding school capacity between the City and the school board.~~

~~(a)(f) *Effect of school board's failure to join or provide timely certification.* This section recognizes the autonomy of the county school board as a sovereign entity. The provisions of this section shall be effective immediately upon the City's adoption of the ordinance creating said section. In the event the county school board and the City do not approve the interlocal agreement referenced in subsection (c) of this section, or the county school board fails to timely provide the City with school capacity reports or other information contemplated by this section, the City shall make the determination on school capacity required by this section based on information the City deems sufficient.~~

~~(a)(g) *Effect of implementation of countywide school concurrency.* This section will be superseded by any valid, countywide, interlocal agreement for school concurrency adopted by this City as required by general law, but only to the extent that said school concurrency agreement conflicts with this section.~~

~~(a)(h) *Effect of maximum densities under the Comprehensive Plan.* The maximum density established by the Comprehensive Plan Future Land Use Map, or an amendment thereto does not absolve a development permit applicant from meeting this section. For the issuance of development permits, the City may require and approve less density than the maximum density established by the Comprehensive Plan Future Land Use Map on the basis of lack of public school capacity.~~

~~(Ord. No. 28-06, § I, 12-6-2006)~~

~~Sec. 2-7. Owners' association.~~

No final development order shall be issued for any development where there is any property within the development which is not to be conveyed to an individual, to a condominium or cooperative, or to a government agency. ~~Where property is to be conveyed to an owners' association, the following standards shall apply.~~

- ~~(1) The organization or legal entity established for the purpose of owning and maintaining common land shall be created by covenants running with the land. The documents creating such an association shall be reviewed and approved by the City Attorney prior to issuance of the final development order.~~
- ~~(2) No such organization shall be dissolved nor shall it dispose of any common land or facilities by sale or otherwise except to an organization conceived and organized to own and maintain such common land or facilities. The organization may offer to dedicate all such land and facilities to the City. The City may make acceptance subject to improvements which will be made before the land or facilities are transferred. If the City agrees to accept the land and facilities, the organization may be disbanded, but not before the improvements are made and the property is transferred.~~

~~(Ord. No. 01-99, § 1(210), 11-3-1999)~~

~~Sec. 2-8. – Proportionate fair-share program.~~

- ~~(a) Purpose. The purpose of this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair-share program, as required by and in a manner consistent with F.S. § 163.3180(16).~~
- ~~(b) Applicability. The proportionate fair-share program shall apply to any development project in the city where the project's traffic impact study or the city's traffic engineer determines that there is insufficient capacity on one or more segments to satisfy the development project's transportation concurrency requirements including transportation facilities maintained by FDOT or Volusia County that are relied upon for transportation concurrency determinations. The proportionate fair-share program does not apply to developments of regional impact (DRIs) using proportionate fair share under F.S. § 163.3180(12), or to developments exempted from concurrency under F.S. § 163.3180.~~
- ~~(c) General requirements.~~
 - ~~(1) An applicant whose project meets the criteria of subsection (b) may choose to satisfy transportation concurrency requirements by making a proportionate fair-share contribution, pursuant to the following requirements:
 - ~~a. The proposed development is consistent with the Comprehensive Plan and applicable land development regulations, and~~
 - ~~a. b. The five-year schedule of capital roadway improvements in the city's Capital Improvements Element (CIE) of the City's Comprehensive Plan includes one or more transportation improvements that, upon completion, will provide sufficient capacity for the deficient segments to accommodate the traffic generated by the proposed development.~~~~
 - ~~(2) The City may choose to allow an applicant to satisfy transportation concurrency for a deficient segment through the proportionate fair-share program by the developer contributing to an improvement that, upon completion, will create additional capacity on the deficient segment sufficient to accommodate the additional traffic generated by the applicant's proposed development even if the improvement project for the deficient segment is not contained in the five-year schedule of capital improvements in the CIE where:
 - ~~a. The DeBary City Council holds an advertised public hearing to consider the proportionate share agreement and corresponding future changes to the five-year CIE, and~~~~

- ~~b. The City adopts, by ordinance, an amendment adding the improvement to the five-year schedule of capital improvements in the CIE. To qualify for consideration under this section, the proposed improvement must be reviewed by the DeBary City Council, and determined to be financially feasible pursuant to F.S. § 163.3180(16)(b)1, consistent with the Comprehensive Plan, and in compliance with the provisions of this section. Financial feasibility for this section means that additional contributions, payments or revenue sources to fund the improvement project are reasonably anticipated during a period not to exceed ten years.~~
- ~~c. Any improvement project proposed to meet a developer's fair-share obligation must meet design standards of the City and county for arterials and those of the Florida Department of Transportation (FDOT) for the state highway system.~~

~~(a)(d) Application process.~~

- ~~(1) Upon identification of a lack of capacity to satisfy transportation concurrency, an applicant may choose to satisfy transportation concurrency through the proportionate fair-share program by submitting an application to the City Manager or his/her designee for the purpose of entering into a proportionate fair-share agreement with the city.~~
- ~~(1)(2) Prior to submitting an application for a proportionate fair share agreement, the applicant shall attend a preapplication meeting with city planning and traffic engineering staff to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. Volusia County and the Florida Department of Transportation (FDOT) will be notified and invited to participate in the pre-application meeting.~~
- ~~(3) Eligible applicants shall submit an application to the city that includes an application fee as established by resolution and the following:
 - ~~a. a. Name, address, and phone number of owner(s), developer and agent;~~
 - ~~a. b. Property location, including parcel identification numbers;~~
 - ~~c. Legal description and survey of property;~~
 - ~~a. d. Project description, including type, intensity, and amount of development;~~
 - ~~a. e. Phasing schedule, if applicable;~~
 - ~~a. f. Description of requested proportionate fair share mitigation method(s);~~
 - ~~a. g. Copy of concurrency application;~~
 - ~~a. h. Copy of the project's traffic impact statement (TIS) or traffic impact analysis (TIA); and~~
 - ~~a. i. Location map depicting the site and affected road network.~~~~
- ~~(1)(4) Within ten business days, city planning staff shall review the application and certify that the application is sufficient and complete. If an application is determined to be insufficient, incomplete, or inconsistent with the general requirements of the proportionate fair-share program as indicated in subsection (c), then the applicant shall be notified in writing of the reasons for such deficiencies within ten business days of submittal of the application. If the applicant does not remedy such deficiencies within 30 days of receipt of the written notification, then the application shall be deemed abandoned. The City Manager may, in his/her discretion, grant an extension of time not to exceed 60 days to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to affect a cure.~~
- ~~(1)(5) Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair share mitigation for development impacts to facilities on the strategic intermodal system (SIS) requires the~~

~~concurrence of the FDOT. If an SIS facility is proposed for proportionate share mitigation, the applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair share agreement.~~

~~(1)(6) When an application is deemed sufficient, complete, and eligible, a proposed proportionate fair share obligation and binding agreement will be prepared by the city, or the applicant with direction from the city, and delivered to the appropriate parties for review. Copies of the agreement shall be provided to FDOT and Volusia County for any fair share mitigation related to their respective thoroughfare facilities.~~

~~(1)(7) The city shall notify the applicant regarding the date of the DeBary City Council meeting at which the agreement will be considered for final approval. No proportionate fair share agreement will be effective until approved by the DeBary City Council.~~

~~(a)(e) Determining proportionate fair share obligation.~~

~~(1) Proportionate fair share mitigation for concurrency impacts may include, separately or collectively, private funds, contributions of land, and construction and contribution of facilities as provided in F.S. § 3180 (16)(c).~~

~~(2) A development shall not be required to pay more than its proportionate fair share. The fair market value of the proportionate fair share mitigation for the impacted facilities shall not differ based on the form of mitigation as provided in F.S. § 163.3180 (16)(c).~~

~~(3) The methodology used to calculate an applicant's proportionate fair share obligation shall be as provided for in F.S. § 163.3180 (12), as follows:~~

~~a. a. The cumulative number of peak hour, peak direction trips from the complete buildout of the proposed development, or buildout of the stage or phase being approved, that are assigned to the proportionate share program segment divided by the change in the peak hour directional maximum service volume (MSV) of the proportionate share program segment resulting from construction of the proportionate share program improvement, multiplied by the anticipated construction cost of the proportionate share project in the year that construction will occur.~~

~~This methodology is expressed by the following formula:~~

~~Proportionate Fair Share = $\frac{\sum Ms_i [(Development Trips_i) \cdot (SV Increase_i)] \cdot Cost_i}{\sum Ms_i [(Development Trips_i) \cdot (SV Increase_i)]}$ (Note: In the context of the formula, the term "cumulative" does not include a previously approved stage or phase of a development.)~~

~~Where: $\sum Ms_i$ = Sum of all deficient links proposed for proportionate fair share mitigation for a project.~~

~~Development Trips_i = These trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;~~

~~SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment "i";~~

~~Cost_i = Adjusted cost of the improvement to segment "i". Cost shall consist of all improvements and associated costs, including design, right of way acquisition, planning, engineering, inspection, and physical development costs, directly associated with construction at the anticipated cost in the year that construction will occur.~~

~~(4) For purposes of determining proportionate fair share obligations, the city shall determine improvement costs based upon the actual and/or anticipated costs of the improvement in the year that construction will occur. The City Development Engineer will determine these costs.~~

~~(1)(5) If the city has accepted an improvement project proposed by the applicant, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the City Development Engineer or other method approved by the City Manager.~~

~~(1)(6) If the city has accepted right-of-way dedication for the proportionate fair share payment, credit for the dedication of the nonsite related right-of-way shall be valued on the date of the dedication at 120 percent of the most recent assessed value by the Volusia County Property Appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the city and at no expense to the city. Said appraisal shall assume no approved development plan for the site. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the city at no expense to the city. If the estimated value of the right-of-way dedication proposed by the applicant (based on a city approved appraisal) is less than the city estimated total proportionate fair share obligation for that development, then the applicant must also pay the difference. If the estimated value of the right-of-way dedication proposed by the applicant (based on a city approved appraisal) is more than the city estimated total proportionate fair share obligation for the development, then the city must pay the difference.~~

~~(f) Proportionate fair share agreements.~~

~~(1)(1) Upon executing a proportionate fair share agreement (agreement) and satisfying other concurrency requirements, an applicant shall receive a certificate of concurrency (or its successor upon amendment of initial concurrency regulations). Should the applicant fail to apply for building permits or final plat within the timeframe provided for in the city's concurrency certificate, then the project's concurrency vesting shall expire, and the applicant shall be required to reapply. Once a proportionate share payment for a project is made and other impact fees for the project are paid, no refunds shall be given. All payments, however, shall run with the land.~~

~~(1)(2) Payment of private funds, contributions of land, and construction and contribution of facilities as provided in F.S. § 3180(16)(c) of proportionate fair share requirements for a project and shall be due and must be paid or completed prior to the issuance of a building permit or recording of a final plat. If payment is submitted more than 12 months from the date of issuance of the certificate of concurrency, then the proportionate fair share mitigation shall be recalculated at the time of payment and shall be subject to approval of the City Development Engineer.~~

~~(1)(3) All developer improvements accepted as proportionate fair share contributions must be completed within three years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement and be accompanied by a performance bond that is sufficient to ensure the completion of all required improvements. It is the intent of this section that any required improvements be completed within three years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement.~~

~~(1)(4) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair share agreement must occur prior to the issuance of a building permit or approval of a final plat.~~

~~(1)(5) Any requested change to a development project subsequent to issuance of a development order shall be subject to additional proportionate fair share contributions to the extent the change would increase project costs or generate additional traffic that would require mitigation.~~

~~(1)(6) Applicants may withdraw from a proportionate fair share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the city are nonrefundable.~~

~~(1)(7) The city may enter into proportionate fair share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.~~

~~(a)(g) Appropriation of fair share revenues.~~

~~(1)(1) Proportionate fair share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the city's Capital Improvements Element, or as otherwise established in the terms of the proportionate fair share agreement. Proportionate fair share revenues may also be used as the 50 percent local match for funding under the FDOT Transportation Regional Incentive Program (TRIP).~~

~~(1)(2) In the event a scheduled facility improvement is removed from the CIE, then the proportionate fair share revenues collected for its construction may be applied toward the construction of alternative improvements within that same corridor or sector where the alternative improvement will mitigate the impacts of the development project on the congested roadway(s) for which the original proportionate fair share contribution was made.~~

~~(Ord. No. 27-06, § I, 12-6-2006)~~

~~DIVISION 1. DEVELOPMENT PROCEDURES AND REQUIREMENTS~~

~~Sec. 4-21. General provisions.~~

~~(a)(a) Purpose. The purpose of this Code is to establish standards, procedures and minimum requirements for the issuance of all development orders and development permits as required by this Code and to regulate and control the platting and development of land within the City limits, except as otherwise specifically set forth herein; provided, however, it is not the purpose of this Code to regulate any bona fide agricultural production, including, but not limited to, horticulture, citrus, dairy, livestock, poultry, forestry or vegetables.~~

~~(a)(b) Violations and penalties. If it is determined by the City Manager that any person is violating any provision of this Code, the City Manager shall notify that person, in writing, indicating the nature of the violation and ordering any action necessary to correct it. The order may include, but not be limited to, a stop work order. Any violation of this Code may be referred to the City code enforcement board. Any person found guilty of a violation of any of the provisions of this Code, or any lawful order of the City Council, or City Manager, shall be punished in accordance with F.S. § 162.22, or any amendments thereto, with a fine not to exceed \$500.00, and/or incarceration not to exceed 60 days. Notwithstanding any other provisions of this Code, a violation of this Code may be abated by any manner as provided by law. Each day the violation continues shall be deemed a separate offense.~~

~~(a)(c) Injunctive relief. In addition to any penalty provided by law for the violation of any of the provisions of this Code, the City Council may bring suit in the appropriate circuit court to enjoin, restrain or otherwise prevent the violation of any of the provisions of this Code in any manner, as provided by law.~~

~~(a)(d) Fee requirements. Reasonable fees to offset the costs of administration of this Code shall be set by resolution of the City Council. All fees must be paid at the time set out in said resolution.~~

~~(e)(n) Reserved.~~

~~(Ord. No. 21-07, § 3, 9-5-2007)~~

~~Sec. 3-1, Sec. 4-22. - Administration~~

~~(a) (a) Purpose. The purpose of this section is to set out the various administrative procedures of this Code and to provide for the establishment of the Development Review Committee.~~

~~(a) (b) Development Review Committee.~~

~~(1) (1) Established. There is hereby established a Development Review Committee (DRC).~~

~~(1) (2) Membership. Membership of the Development Review Committee shall include the following, or their designated representative:~~

~~a. The City planner, who shall act as chairman;~~

~~a. b. Two additional members who shall be appointed by the City Manager.~~

~~County, local, state or federal agencies may be consulted by the Development Review Committee for advice or recommendations on any matter or application being considered by the Development Review Committee.~~

~~(1) (3) Duties and responsibilities. The duties and responsibilities of the Development Review Committee shall include:~~

~~a. a. Reviewing all applications under this Code to:~~

~~i. 1. Delineate areas of noncompliance with City development requirements; and~~

~~i. 2. Define steps necessary to bring applications into compliance with City development requirements.~~

~~b. Approving applications for development orders.~~

~~c. When, in the judgment of the Development Review Committee, strict application of the requirements of this Code would result in an inequitable or unreasonable result, stifle innovative or creative design, or create undue hardship when applied to a specific project or development, the Development Review Committee may recommend modifications of such requirements to the extent necessary to achieve equity or reasonableness, or relieve the undue hardship; provided that no such modification shall be contrary to requirements of law or the general policies of this Code; nor shall any such modification, as applied to one development, establish precedent with regard to any other development subject to review. Application for such modification may be submitted with the development review application at any phase of the review process.~~

~~a. d. Performing such additional duties as the City Manager may, from time to time, assign.~~

~~(1) (4) Meetings. The Development Review Committee shall meet at least twice per 30 days at such place as determined by the Development Review Committee. A schedule of the meeting times and places shall be adopted annually by the Development Review Committee. An agenda shall be prepared and distributed to each member and to the applicant at least five working days prior to each meeting. All applicants having requests to be reviewed by the Development Review Committee shall be invited to attend and participate in the meeting. Such records of the proceedings of the Development Review Committee meetings as required by law shall be kept.~~

~~(5) Responsibilities of the LDD:~~

~~a. a. Being a central intake point for applications;~~

~~a. b. Reviewing applications for completeness;~~

~~c. Providing liaison between applicants and the DRC;~~

- ~~a. d. Preparing and distributing agendas and reports for meetings of the DRC and the City Council;~~
- ~~a. c. Taking and preparing the minutes of all DRC meetings;~~
- ~~f. Comparing final construction plans and final plats with the approved development order to ensure consistency;~~
- ~~g. Performing such other functions as the City Manager may, from time to time, assign.~~
- ~~(6) Duties and responsibilities of the LDM. Duties and responsibilities of the LDM shall include:~~
 - ~~a. a. Coordinating application review procedures;~~
 - ~~a. b. Issuing concurrency certificates of capacity;~~
 - ~~e. Administration and management of the land development division;~~
 - ~~d. Issuing development orders and development permits in compliance with the requirements and procedures of this ordinance;~~
 - ~~e. Filing final subdivision plats with the clerk of the circuit court.~~
 - ~~f. Ensuring that final construction plans and final plats are consistent with approved development order.~~

~~**Sec. 3.1. Sec. 4-23. Development orders, development permits, approval authority, installation of improvements, public services and facilities agreements, and appeals.**~~

~~(a) (a) Purpose. The purpose of this section is to:~~

- ~~(1) (1) Provide for the applicability, approval and issuance of development orders and development permits to ensure that all of the provisions of this Code are complied with, to ensure the installation of required improvements;~~
- ~~(2) Provide for public services and facilities agreements; and~~
- ~~(3) Provide an appeal process.~~

~~(a) (b) Applicability. No person shall undertake the development of land in the City except pursuant to a valid development order or development permit issued under this Code unless specifically exempted as provided by this Code. All development shall meet the requirements of this Code prior to the approval and issuance of any development order or development permit, unless specifically exempted from the requirements of this Code by provisions set forth herein, or one or more such requirements are waived in accordance with provisions set forth herein.~~

~~(a) (c) Approving authority. The Development Review Committee shall make a recommendation to City Council for approval, approval with conditions or denial of all development order applications for which the City Council makes a final decision. The Development Review Committee shall have authority to approve, approve with conditions or deny a development order for final site plan, sketch plan, overall development plan, preliminary plat and construction plan meeting the definition of this code except as otherwise provided herein. All development order approvals and approvals with conditions for final site plans, sketch plans, overall development plans, preliminary plats and construction plans by the Development Review Committee must have a final signature of approval by the City Manager or the City Manager's designated LDM before such are deemed issued. Final site plans, sketch plans, overall development plans, preliminary plat and construction plans shall not require City Council approval if a development order on such is issued after approval or approval with conditions by the Development Review Committee unless an appeal of a Development Review Committee decision is brought in accordance with subsection (g). The Development Review~~

~~Committee, on their own motion and for cause, may continue consideration of an application to a subsequent meeting.~~

- ~~(a) (d) Issuance of development orders and development permits. A preliminary development order, upon issuance, shall authorize continuation to the next step in a development review process. A final development order, upon issuance, shall authorize issuance of appropriate development permits. A development permit, upon issuance, shall authorize commencement of construction of the work covered by the scope of the permit. **No development or construction shall commence unless a valid final development order or development permit has been issued as provided by this Code.** All development or construction commenced pursuant to a valid development order or development permit shall be completed in a manner which is consistent with the approved development order or development permit.~~
- ~~(e) Installation of improvements. All improvements required to be installed, constructed or provided by the developer as a condition to the approval of a development order shall be installed and completed or guaranteed as specified in section 4-111(a)(1).~~
- ~~(f) Public services and facilities agreements. In order to further the purposes of this Code regarding the provision of public services and facilities to a proposed development, the City may enter into an agreement with the developer of the proposed development which will provide a means to:~~
- ~~(1) (1) Ensure the certainty of providing public services and facilities for the proposed project;~~
 - ~~(1) (2) Ensure the provision of public services and facilities to other developments in the vicinity of the proposed development;~~
 - ~~(1) (3) Allocate the costs of providing public services and facilities;~~
 - ~~(1) (4) Allocate the capacities of the public services and facilities;~~
 - ~~(1) (5) Determine the responsibilities for construction and maintenance of the public services and facilities.~~
- ~~(g) Appeals. Any applicant or owner of property subject to the action being appealed, and/or the City Council acting as a body, aggrieved by a decision of the Development Review Committee, may file a written appeal with the City Manager within ten days after the date said decision is rendered in writing in order to have the decision reviewed by the City Manager. The City Manager shall then review the appeal for sufficiency and determine if the petition meets the appeals process pursuant to this section of the Code. The appeal shall state fully the specific grounds for the appeal and all of the facts relied upon by the petitioner. The City Council may then hear the appeal de novo and may consider those items specified in the petition and any related new evidence. The City Council may, upon appeal, reverse, affirm or modify any decision of the Development Review Committee.~~

~~(Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. 03-16, Exh. A, 1-20-2016)~~

~~**Sec. 3.1. Sec. 4-24. – Application review requirements.**~~

~~An application for a development order shall be reviewed by the Development Review Committee in accordance with section 4-25. No application for a development order shall be approved which does not comply with the following:~~

- ~~(1) The City Comprehensive Plan;~~
- ~~(2) The City Land Development Code.~~

~~**Sec. 4-25. – Development review procedures.**~~

~~All applications and supporting information required by this Code shall be filed with the LDD. All required application fees, as set by resolution of the City Council, shall be paid prior to acceptance of the application. The number of copies of the supporting information needed for distribution to all concerned reviewing~~

agencies, as determined by the LDM, shall be submitted with the application prior to acceptance. Except as otherwise provided in this Code, the following procedures shall govern the review of such applications:

- ~~(1) *Completeness of application.* The LDM shall review the application to determine its completeness. Within three working days after receipt, he shall either accept the application if it is complete and forward to the applicant a notice of acceptance, or reject the application if it is incomplete and forward to the applicant a notice of incompleteness specifying the data missing from the application received.~~
- ~~(1) a. If neither a notice of acceptance nor incompleteness is sent, the application shall be deemed accepted for purposes of beginning the time limits of this division on the fourth working day after the filing of the application.~~
 - ~~b. If a notice of incompleteness is sent, the applicant shall resubmit the application with the additional data required. Upon receipt, the LDM shall review the resubmittal application in the manner provided in this subsection for the original application.~~
- ~~(2) *Distribution of accepted application.* Following acceptance of an application, the LDM shall forward a copy of the application to all review agencies and to any state or federal agency deemed by the LDM to be a concerned agency for the review process.~~
- ~~(3) *Review responsibilities.* Each member of the City review agency shall prepare a report which sets out, in writing, their comments specifying the exact references to the Code or other regulation being commented on and recommendations regarding the application and shall forward such report to the LDM at or before the meeting of the Development Review Committee held in accordance with this division. The LDM may waive one or more agency reviews, in whole or in part, under this section upon his determination that such a review has already been made regarding the same land and no change in standards or circumstances has occurred which necessitates further review.~~
- ~~(4) *Review.* Applications shall be reviewed by the Development Review Committee and shall be discussed at a meeting held in accordance with the requirements of the Development Review Committee.~~
- ~~(a) (5) *Application revision.* An application may be revised by the applicant after it has been reviewed by the Development Review Committee. Any application so revised must include a revision date on the plans. If any portion of the review process must be repeated to accommodate the revised application, the time limits prescribed in this division shall be extended but not to exceed 20 working days from the date that the revision has been received.~~
- ~~(6) *Development order review and final action.*~~
 - ~~(1) a. Within 60 working days from the acceptance of an application or revised application, the Development Review Committee shall make one of the following determinations:
 - ~~a. 1. That the application or revised application is in compliance with the requirements of this Code, and shall approve, or recommend approval of the application;~~
 - ~~a. 2. That the application or revised application is not fully in compliance with the requirements of this Code, stating those conditions which they find are necessary to ensure compliance with this Code, and shall approve, or recommend approval of the application subject to those conditions being met; or~~
 - ~~3. That the application or revised application is not in compliance with the requirements of this Code, and shall deny, or recommend denial of the application, stating the basis for such denial, or may continue consideration of and final action on the application pending submittal of a revised application.~~~~
 - ~~b. Reserved.~~

- ~~e. Site plans approved by the Development Review Committee shall not require City Council approval pursuant to section 4-23.~~
- ~~d. An applicant may appeal the Development Review Committee's denial pursuant to section 4-23(g) and request to have the site plan considered by City Council.~~
- ~~(7) Subdivision final plat review and final approval; Development Review Committee consideration and City Council final action.~~
 - ~~a. Within 20 working days from the acceptance of the application or revised application for a subdivision final plat development order, the Development Review Committee shall consider the application and shall make a recommendation to the City Council for final action or, if the Development Review Committee determines the application is not in compliance with the requirements of this Code, the Development Review Committee may continue consideration of the application pending submittal of a revised application.~~
 - ~~b. If the application is recommended for approval with conditions by the Development Review Committee, the LDM may request that the applicant submit a revised application incorporating the conditions of approval prior to sending the application to the City Council for final action. After submittal of a revised application which meets the conditions of the Development Review Committee, the LDM shall transmit the revised application to the City Council at their next regular meeting for final approval, noting any conditions of approval by the Development Review Committee. The LDM may request subsequent revised applications prior to transmitting the application to the City Council if the application, as revised, does not meet the requirements of the Development Review Committee's conditional approval.~~
 - ~~c. If the application is recommended for approval by the Development Review Committee without conditions; or if the City Manager determines that all of the Development Review Committee's conditions have been resolved, or that any remaining conditions should be resolved by the City Council, the LDM shall transmit the application to the City Council for consideration for final action at the next available City Council meeting.~~
 - ~~d. No application recommended for denial by the Development Review Committee shall be transmitted to the City Council for final action except that the applicant may appeal from the Development Review Committee's denial pursuant to section 4-23(g).~~
- ~~(8) Subdivision final plat review; City Council final action.~~
 - ~~a. At a regularly scheduled public meeting, the City Council shall review the application and the Development Review Committee recommendation for conformity to this Code and shall act appropriately upon the application.~~
 - ~~b. The appropriate action of the City Council shall be one of the following determinations:
 - ~~1. That the application is in compliance with the requirements of this Code, in which case the City Council shall approve the application;~~
 - ~~2. That the application is not fully in compliance with the requirements of this Code, stating those conditions which they find are necessary to ensure compliance with this Code, in which case the City Council shall approve the application subject to those conditions being met; or~~
 - ~~3. That the application is not in compliance with requirements of this Code, in which case the City Council shall deny the application and state the basis for such denial.~~~~
 - ~~c. A final determination by the City Council under this subsection (8) may be deferred if the City Council finds that available information is insufficient on which to base either approval or denial of a particular application, and the City Council directs or has directed that a specific study commence to provide the City Council with information sufficient to form the basis on which to approve or deny the application, and the study will be completed within a time certain, not to exceed 180 days from the date of the City Council's determination under this~~

~~subsection; provided, however, as a prerequisite to directing that a specific study commence to provide the City Council with information sufficient to form the basis on which to approve or deny a particular application, the City Council shall identify the inadequacy of the information available with respect to the application.~~

- ~~d. If the City Council determines that adequate public facilities required under this Code are not available, but are planned to become available in the future, they may:
 - ~~1. Defer action until adequate public facilities are available;~~
 - ~~2. Approve the application, subject to the condition that no building permit shall be issued until adequate public facilities are available;~~
 - ~~3. Approve the application, subject to the condition that no certificate of occupancy be issued until adequate public facilities are available; or~~
 - ~~4. Approve the application, subject to the condition that the developer enter into a public services and facilities agreement pursuant to this Code to ensure that adequate public facilities are available at the time the impacts of the development occur.~~~~

~~(1)(9) Valid period and issuance of development orders.~~

- ~~a. The valid period of any development order shall begin on the date of approval by the City Council and shall remain valid for a period of 360 days from the date of issuance.~~
- ~~b. Development orders shall be issued by the LDM within five working days after being notified of the actions of the City Council; provided all conditions of approval, if any, have been resolved and that the approved concurrency certificate of capacity, if required, can be or has been issued.~~

~~(1)(10) Effect of development order.~~

- ~~a. a. If construction of a site development has commenced pursuant to a valid building permit during the valid period of a final site plan development order, construction may be completed in accordance with the approved development order as long as the building permit remains valid.~~
- ~~a. b. If construction of the required improvements in a subdivision development has commenced during the valid period of a preliminary plat development order, the improvements may be completed in accordance with the approved development order beyond the valid period of that development order only if the subdivision final plat development order has been approved by the City Council. Construction of the required improvements in a subdivision shall be completed or shall be guaranteed for completion pursuant to division 5 of this article prior to recording the final plat.~~
- ~~c. A development order for a subdivision final plat shall be issued only after the final plat is recorded and upon issuance shall remain valid until the subdivision or any part thereof is abandoned in accordance with the laws of the City and the state.~~
- ~~a. d. During the period of 90 days before and 90 days after the expiration of any development order, the developer may request an extension of that valid period from the City Council. Such request shall be submitted to the LDM. The City Council may approve an extension of that valid period for a period of time not to exceed 360 days and may attach such conditions as they determine appropriate.~~

~~(Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. 03-16, Exh. A, 1-20-2016)~~

Sec. 3.21. Sec. 4-26. – Availability of pedestrian and bicycle circulation facilities.

There is hereby established a City sidewalk improvement trust fund. Money deposited in this fund shall be used for the purpose of constructing pedestrian and bicycle facilities in areas determined by the City to be needed for the safety and convenience of the pedestrians and bicyclists of the City.

- (a) ~~(1)~~—The DRC or City Council, in their consideration of a development application, may approve the payment of money into the trust fund in lieu of construction of the sidewalks required by ~~section 4-99~~Chapter 7.
- (b) ~~(2)~~—The amount of money to be paid in lieu of construction shall be determined by the City Engineer by establishing the average cost of constructing such facilities. The City Engineer shall review such cost annually and certify such cost to the ~~LDMGMD~~ prior to October 1 of each year. Such cost shall be utilized by the ~~LDMGMD~~ to make a determination of the amount of money owed by the developer as payment into the trust fund. The City Manager may approve a different amount of money to be paid into the trust fund by the developer based upon the actual cost of constructing the facilities in the development as evidenced by a construction bid, submitted by the developer and verified by the City ~~Development~~ Engineer ~~(CDE)~~ for that purpose.
- (c) ~~(3)~~—The total amount of money owed shall be paid to the ~~LDDGMD~~ prior to or concurrent with issuance of a building permit for a site development or prior to recording the final plat for a subdivision development. The City shall keep a record of all money paid into the trust fund and shall, upon payment, deposit the money into the appropriate sub fund. Payment of all the money owed by the developer shall constitute full payment of the money necessary for the City to construct the required facilities at the location of the development at a future time deemed appropriate by the City Council.

Sec. 3.22. Conceptual site plan review.

(a) Filing.

- (1) All applicants for an FSP may first submit a conceptual site plan application (CPS) to the GMD.
- (2) The GMD shall, within three working days of acceptance of the application, review the application for conformity with this Code and other development regulations and notify the applicant in writing of the results of the review. Thereafter, the applicant may submit an application for an FSP.

(b) Procedures. An application for a CPS may be filed and processed pursuant to Sec. 3.4 and 3.18

(c) Required submittals. A CPS application shall include the following:

(1) Conceptual site plan application.

- a. Statement of ownership of the proposed development, and the names, addresses and telephone numbers of the developer and any project engineers, architects or planners;
- b. Legal description;
- c. Current zoning classification;
- d. Schematic representation of proposed use, including building size, shape and location on the site;
- e. Schematic representation of vehicular circulation within the site, including driveways, parking areas and loading areas;
- f. Schematic representation of points of connection to the public rights-of-way;
- g. Location of landscaping;
- h. Location of floodplains and wetlands;
- i. Location of signage, if applicable; and

j. Data on density/intensity.

k. Number of dwelling units for multi-family residential projects.

(Ord. No.

~~Secs. 4-27—4-40—Reserved.~~

~~DIVISION 02-12, § 2(Exh. A), 9-5-2012)~~

Sec. 3.23. Final site plan review.

- (a) Approval required. Unless otherwise stated in this Code, granting of a final site plan (FSP) development order is required prior to the issuance of any development permit allowing the commencement of site construction of commercial, industrial, or multi-family development in the City.
- (b) Procedures. An application for an FSP shall be filed and processed pursuant to sections 3.4 and 3.18. Exempt development. The following activities shall not require compliance with this division, but may be subject to other divisions of this article:
- (1) Construction of a single-family home and customary accessory structures on an existing single-family zoned lot.
 - (2) Construction of a single duplex or triplex and customary accessory uses on an existing duplex zoned lot.
 - (3) The installation of those improvements which are required to develop a subdivision and for which development permits have been issued pursuant to Division 5 of this Chapter.
 - (4) Agricultural production practices, which include fencing, drainage, irrigation and other agricultural uses and structures, including portable structures which do not conflict with existing City ordinances.
 - (5) Minor site plans pursuant to Sec. 3.24
 - (6) Minor or de minimis projects as determined by the GMD.
- (c) On- and off-site development. The provisions of this division shall be applied to all development which is the subject of an FSP, whether that development is on or off the subject site.
- (d) Final site plan application. An FSP application for final site plans may be submitted pursuant to sections 3.4 and 3.18 and shall include the following information and exhibits drawn to a scale deemed appropriate by the City Engineer:
- (1) Statement of ownership of the parcel, and the names, addresses and telephone numbers of the developer and any project engineers, architects or planners;
 - (2) Legal description;
 - (3) Current zoning classification;
 - (4) Vicinity map at a scale of one inch equals 2,000 feet with sufficient information to locate the property in the field;
 - (5) A survey of the subject property, prepared by a registered surveyor, showing the boundaries of the project, and any existing streets, buildings, watercourses, easements and section lines. The survey shall be no older than two years;
 - (6) Floodprone areas;
 - (7) Water bodies or courses;

- (8) Swamp or wetland areas;
- (9) Tree survey, including a table depicting existing trees, tree retention, and applicable mitigation.
- (10) A plan, signed and sealed by a state registered professional engineer, containing the title of the project, its date, scale and a north arrow, and illustrating the location of all proposed buildings and structures, access and traffic flow, off-street parking and off-street loading areas, recreational facilities, landscaped and buffer areas, refuse collection areas, proposed utilities, and existing and proposed topography at one-foot contour intervals;
- (11) Total acreage, project density/intensity, and the percentages of total acreage for each permitted use, for building coverage and for impervious surface coverage;
- (12) Architectural plans when required by other provisions of this Code.
- (13) Number of dwelling units for multi-family residential projects.
- (14) Statement of the proposed number of off-street parking and loading spaces and how that number was calculated;
- (15) Statement of the proposed arrangements for the maintenance of common open space areas and facilities;
- (16) Location and height of all structures and total floor area with dimensions to lot lines, and designation of use;
- (17) Building separations;
- (18) Vehicular circulation system for bicycles, cars and other required vehicle types, with indication of connection to adjacent streets;
- (19) All adjacent rights-of-way, with indication of centerline and width, paving width, existing median cuts, driveways and intersections, street light poles and power company facilities;
- (20) Pedestrian circulation system;
- (21) Provider of water and sewerage facilities;
- (22) Existing and proposed fire hydrant locations and water main sizes;
- (23) Direction of drainage flows and nature of retention facilities;
- (24) Indication of existing native vegetation that will be preserved;
- (25) Identify known wildlife corridors for federal and state endangered species, threatened species or species of special concern;
- (26) Identify known plants and animals which inhabit the site that are listed as federal and state endangered species, threatened species or species of special concern;
- (27) Identify known historic and archaeological sites;
- (28) Location of solid waste disposal system and provisions for accessibility to refuse collection and recycling trucks;
- (29) Off-street parking, loading, bicycle parking and mass transit loading (bus stop) areas and provisions for accessibility to vehicles of the required type;

(30) Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles of the required type;

(31) Design of all paved areas, including dimensions, radii and elevations, as well as plans for traffic control signs and pavement markings;

(32) Location of all drainage features, and retention areas; lowest floor elevation of proposed buildings;

(33) Plans and specifications required pursuant to all other applicable provisions of this Code;

(34) Computation of pervious and impervious area, in square footage and percentage;

(35) Building floor areas, elevations, sizes, types and typical floor plans;

(36) Plans for signs, which at a minimum shall include location, size and setbacks;

(37) A landscaping plan signed and sealed by a landscape architect meeting the requirements of this Code;

(38) Location and plans for any outside storage areas;

(39) Any additional information deemed necessary by any reviewing department or agency, or deemed appropriate by the developer;

(40) If the FSP was prepared on a geographic information system or CAD system, the applicant shall provide electronic copies to the GMD;

(41) Solid waste container and enclosure. Trash storage facilities in all commercial and industrial districts shall be screened by the owner so as to completely conceal such facilities from the view of persons in adjacent public rights-of-way normally reserved for vehicular traffic. This screening shall conform generally to the aesthetics and architectural characteristics of the adjoining principal structure or structures, and the use of natural materials and landscaping is encouraged. A dumpster pad detail and location plan shall be submitted to the zoning department for approval and permitting before any dumpster is located within the City limits. The specifications shall be as follows: A concrete pad shall be required, 12 feet wide and 16 feet long, with a six-foot high screened enclosure with a lockable gate. Said gate and screen are to be located outside of and not on the pad. The angle of the pad with the driving lane shall allow for a straight line maneuvering distance of 55 feet. A final inspection shall be required to ensure proper installation of the dumpster; and

(42) Any other exhibits as may be required by a City reviewing agency.

One or more of the above items of information may be waived by the GMD at the time of application if deemed unnecessary in a particular case. The waived item may still be subsequently required by any reviewing department or agency if they deem it necessary.

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

Sec. 3.24. Minor final site plan review

- (a) Approval required. A minor site plan development permit is required prior to the commencement of site construction of a minor site improvement as defined in this Code.
- (b) Exemption from requirement for development order. An application for a minor FSP is exempt from the requirement for a final site plan development order and shall be issued a development permit consistent with the requirements of this Code and the City's Code of Ordinances.
- (c) Minor final site plan application. An application for a minor FSP may be submitted pursuant to the City's procedures for the issuance of development permits and shall include the following information and exhibits drawn to a scale deemed appropriate by the City Engineer, as deemed applicable to the project:
- (1) Statement of ownership of the parcel, and the names, addresses and telephone numbers of the developer and any project engineers, architects or planners;
 - (2) Legal description;
 - (3) Current zoning classification;
 - (4) Vicinity map at a scale of one inch equals 2,000 feet with sufficient information to locate the property in the field;
 - (5) A survey of the subject property, prepared by a registered surveyor, showing the boundaries of the project, and any existing streets, buildings, watercourses, easements and section lines. The survey shall be no older than two years;
 - (6) Floodprone areas;
 - (7) Water bodies or courses;
 - (8) Swamp or wetland areas;
 - (9) Tree survey, including a table depicting existing trees, tree retention, and applicable mitigation.
 - (10) A plan, signed and sealed by a state registered professional engineer, containing the title of the project, its date, scale and a north arrow, and illustrating the location of all proposed improvements;
 - (11) Total acreage, project density/intensity, and the percentages of total acreage for each permitted use, for building coverage and for impervious surface coverage;
 - (12) Architectural plans when required by other provisions of this Code.
 - (13) Number of dwelling units for multi-family residential projects.
 - (14) Statement of the proposed number of off-street parking and loading spaces and how that number was calculated;
 - (15) Statement of the proposed arrangements for the maintenance of common open space areas and facilities;
 - (16) Location and height of all structures and total floor area with dimensions to lot lines, and designation of use;
 - (17) Building separations;
 - (18) Vehicular circulation system for bicycles, cars and other required vehicle types, with indication of connection to adjacent streets;

- (19) All adjacent rights-of-way, with indication of centerline and width, paving width, existing median cuts, driveways and intersections, street light poles and power company facilities;
- (20) Pedestrian circulation system;
- (21) Provider of water and sewerage facilities;
- (22) Existing and proposed fire hydrant locations and water main sizes;
- (23) Direction of drainage flows and nature of retention facilities;
- (24) Indication of existing native vegetation that will be preserved;
- (25) Identify known wildlife corridors for federal and state endangered species, threatened species or species of special concern;
- (26) Identify known plants and animals which inhabit the site that are listed as federal and state endangered species, threatened species or species of special concern;
- (27) Identify known historic and archaeological sites;
- (28) Location of solid waste disposal system and provisions for accessibility to refuse collection and recycling trucks;
- (29) Off-street parking, loading, bicycle parking and mass transit loading (bus stop) areas and provisions for accessibility to vehicles of the required type;
- (30) Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles of the required type;
- (31) Design of all paved areas, including dimensions, radii and elevations, as well as plans for traffic control signs and pavement markings;
- (32) Location of all drainage features, and retention areas; lowest floor elevation of proposed buildings;
- (33) Plans and specifications required pursuant to all other applicable provisions of this Code;
- (34) Computation of pervious and impervious area, in square footage and percentage;
- (35) Building floor areas, elevations, sizes, types and typical floor plans;
- (36) Plans for signs, which at a minimum shall include location, size and setbacks;
- (37) A landscaping plan signed and sealed by a landscape architect meeting the requirements of this Code;
- (38) Location and plans for any outside storage areas;
- (39) Any additional information deemed necessary by any reviewing department or agency, or deemed appropriate by the developer;
- (40) If the FSP was prepared on a geographic information system or CAD system, the applicant shall provide electronic copies to the GMD;
- (41) Solid waste container and enclosure. Trash storage facilities in all commercial and industrial districts shall be screened by the owner so as to completely conceal such facilities from the view of persons in adjacent public rights-of-way normally reserved for vehicular traffic. This screening shall conform generally to the aesthetics and architectural characteristics of the adjoining principal

structure or structures, and the use of natural materials and landscaping is encouraged. A dumpster pad detail and location plan shall be submitted to the zoning department for approval and permitting before any dumpster is located within the City limits. The specifications shall be as follows: A concrete pad shall be required, 12 feet wide and 16 feet long, with a six-foot high screened enclosure with a lockable gate. Said gate and screen are to be located outside of and not on the pad. The angle of the pad with the driving lane shall allow for a straight line maneuvering distance of 55 feet. A final inspection shall be required to ensure proper installation of the dumpster.

(42) Any other exhibits as may be required by a City reviewing agency.

One or more of the above items of information may be waived by the GMD at the time of application if deemed unnecessary in a particular case. The waived item may still be subsequently required by any reviewing department or agency if they deem it necessary.

Sec. 3.25. Conformity to recorded plat and zoning regulations.

(a) Conformity to recorded plat. If a FSP includes land previously platted, it shall conform to such plat.

(b) —Conformity to zoning regulations. Development depicted in a FSP shall conform to all applicable zoning regulations.

(c) Conformity to Comprehensive Plan. Development depicted in a FSP shall conform to all provisions of the City's Comprehensive Plan.

Division 5. SUBDIVISION REGULATIONS

Sec. 3.26. ~~Sec. 4-41.~~ Purpose.

(a) ~~(a)~~—Generally. The purpose of this division is to establish procedures for the subdivision of land in the City.

(b) ~~(b)~~—Prohibitions on transfer of lots and issuance of development ~~or building orders and development permits for lots not in compliance with this Code.~~ It shall be a violation of this Code for anyone who is the owner, or agent of the owner, of any land to transfer, sell, agree to sell, or negotiate to sell such land by reference to, exhibition of, or other use of a plat of a subdivision of such land without having the plat approved as required by this Code. In addition, no development ~~permit~~order or ~~building development~~ permit shall be issued on any lot unless that lot is in compliance with this Code.

(c) ~~(c)~~—Exemptions.

(1) ~~(1)~~—Acquisition for public use.

(2) ~~(2)~~—Condominiums.

Sec. 3.27. ~~(3)~~—Lot splits; lot line adjustments; lot combinations.

(a) The City Manager or his/her designee, may waive the requirement for preliminary plat and final subdivision plat approval when a lot split ~~or~~ lot adjustment or lot combination results in the creation of one or two lots either from the division of one existing lot, the combination of two more lots, or by the adjustment of two existing adjacent lots and the following conditions are satisfied:

(1) i.—Each parcel meets the zoning standards of the property's zoning classification without the necessity of a variance.

ii.—~~Each parcel has a net buildable acreage equal to the minimum lot size requirement of the applicable zoning classification and located above the 100-year flood plain.~~

(2) iii.—Parcels have frontage on a ~~public~~ road right-of-way.

(3) iv.—The addition of impervious area will not impact the stormwater system of the area.

(4) v.—Where property abuts an existing standard street and no new improvements for water, sewer or drainage improvements are required.

(5) vi.—Legal access to and from the lots and a public right-of-way is provided.

(6) vii.—Easements and access for public services and utilities are provided, if necessary.

(7) viii.—Executed joinder and consent to the proposed lot split or adjustment from all owners of the property and mortgage holders, if applicable.

(8) Any lots created shall be buildable.

(9) No lots shall be created pursuant to this section that would result in new necessary public facilities and infrastructure

(b) Procedures. An application shall be filed and processed on a form provided by the City;

(c) Required submittals. The completed application shall include the following information and exhibits:

(1) A completed application with all required contracts and notarized forms completed;

(2) Verification of ownership of the parcel(s), such as a warranty deed;

(3) Survey(s) of each existing lot and a separate survey for each proposed lot. The surveys shall be no older than two years, prepared by a registered surveyor, and shall provide the following information:

a. Legal description of the property(s);

b. North point;

c. Existing lot dimensions;

d. Existing easements;

e. Names and dimensions of all streets within or abutting the property, and whether the streets are dedicated County, Cite, or private roads, and whether they are unopened, paved, or unpaved;

f. Flood plains;

g. Wetlands;

h. Existing septic tanks;

i. Existing wellfields;

j. Ingress and egress; and

k. Any other information required by the State Statutes, as amended.

(d) Recordation. If the application is approved by the City, the applicant must have the approved application reviewed by the Volusia County Property Appraiser's Office and recorded, as required by Volusia County regulations.

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. [03-16](#), Exh. [A, 1-20-2016](#)) ~~A, 1-20-2016~~)

~~Sec. 4-42. – Reserved.~~

~~Sec. 4-43. – Sketch~~

Sec. 3.28. Concept subdivision plan review.

The intent of this review is to give the developer an opportunity to introduce a proposed subdivision to the Development Review Committee for the purpose of familiarizing the developer with a broad range of Development Review Committee considerations prior to the preparation of detailed plan documents. These considerations include, but are not limited to, such items as the Comprehensive Plan, City development policies and regulations, other development in the vicinity of the proposed subdivision, soil types, area drainage patterns, floodplain and floodprone areas, and the capability of the land to support the proposed development. One specific purpose of this procedure is to provide the applicant with staff comments concerning floodprone areas in the proposed subdivision and to provide staff recommendations concerning those floodprone areas and the level of development considered to be acceptable by the City Council.

(a) (1)—Procedures.

(1) a.—An application for ~~sketch concept~~ plan review shall ~~may~~ be filed and processed pursuant to ~~section 3.4, except subsection (f) of that section 4-25(1)–(5). Exhibits shall be submitted in sufficient copies, as determined by the LDM, to meet the requirements of the Development Review Committee and any additional agency deemed to be a concerned review agency.~~

(2) b.—A developer may elect to omit the ~~sketch concept~~ plan review and proceed directly to the overall development plan review at section ~~4-443.29~~. If the ~~sketch concept~~ plan review is omitted, the Development Review Committee shall consider the extent to which the flood-prone area shall be developed ~~in accordance with subsection (4) of this section~~ at the overall development plan review stage.

(b) (2)—*Required submittals.* A ~~sketch concept~~ plan shall be drawn at a scale no smaller than ~~one inch equals 200 feet~~ deemed appropriate by the City Engineer and shall illustrate clearly:

a.—~~Vicinity map at a scale no smaller than one inch equals 2,000 feet with sufficient information to locate the property in the field.~~

(1) b.—Total acreage.

(2) c.—Floodprone ~~area~~ areas (if applicable).

(3) d.—Water bodies or courses.

(4) e.—~~Swamp or wetland~~ Wetland areas as defined herein.

f.—~~Specific soil types and their limitations for planned use. Soil information is to be taken from the most recent soil survey of the county. The soil types and boundaries shall be delineated on the plan.~~

g.—~~Graphically depict on plan, predominant plant communities and identify types by common name and location.~~

(5) h.—Parcel number according to the ~~county~~ County property appraiser.

i.—~~Topography of the site at not more than five-foot vertical contour intervals based on mean sea level data furnished by a professional engineer or surveyor. The topographical survey shall be consistent with current land development.~~

(6) j.—Tentative layout of street system, lot patterns, ~~drainage systems, and~~ approximate subdivision boundaries, ~~and existing zoning~~.

(7) k.—Areas that may be reserved for parks or recreation sites, conservation easements, or natural open space areas.

~~(8) l.—Streets adjacent to the tract, including rights-of-way and pavement widths, and driveways on both sides of adjacent streets within 300 feet of proposed development.~~

~~m.—Lots and blocks of adjacent recorded plats, giving plat book and page number along with names of such plats.~~

~~(9) n.—Current zoning and existing uses of subject property and of adjacent and surrounding properties.~~

~~e.—Proposed location of water and wastewater treatment facility lines.~~

~~(10) p.—All existing on-site or adjacent easements, including drainage, electricity, gas, water, wastewater, or other pipeline or utility easements.~~

~~(11) q.—The Boundary survey with 5-foot interval contours and legal description of the property proposed for platting.~~

~~r.—Any other appropriate information thought necessary by the prospective applicant to make a schematic presentation.~~

~~s.—Identify known wildlife corridors for federal and state endangered species, threatened species or species of special concern.~~

~~t.—Identify known plants and animals which inhabit the site that are listed as federal and state endangered species, threatened species or species of special concern.~~

~~u.—Identify known historic and archaeological sites.~~

~~v.—Boundary survey.~~

~~(c) (3)—Development Review Committee review.~~ The Development Review Committee shall review the application and informally discuss with the applicant any steps necessary to bring the application into compliance with the requirements of this Code. Thereafter, the applicant may submit an overall development plan application pursuant to section 4-443.29.

~~(4)—Floodprone areas.~~

~~a.—If the Development Review Committee determines that a development lies within a floodprone area, it shall provide written recommendations to the applicant regarding the level of development that may be acceptable in such areas. Development Review Committee recommendations may address preservation of land contour, species preservation, development and maintenance of aesthetic values such as scenic views, and maintenance of freedom of movement of wildlife.~~

~~b.—In defining the floodprone areas, the Development Review Committee shall consider topography, flood maps, soil conditions, vegetation, seasonal high-water table, manmade drainage systems and the storage capacity thereof, natural watersheds, watercourses and basins. The applicant shall provide the Development Review Committee with the information it deems necessary regarding these items.~~

~~(5)—Request for determination by City Council.~~

~~a.—If the applicant is aggrieved by the Development Review Committee's recommendations regarding development in floodprone areas, he may request an appeal to the City Council. Appeals must be filed with the City Manager within 20 working days following the transmission of the Development Review Committee's recommendations to the applicant and must state with particularity the points of disagreement and the specific basis for such disagreement. All other Development Review Committee recommendations are advisory only and not subject to City Council review under this appeal.~~

~~b.—The appeal to the City Council may be based only on evidence reviewed by the Development Review Committee. No additional evidence shall be submitted to the City Council by either~~

~~the applicant or the Development Review Committee subsequent to the Development Review Committee's review; provided, however, the applicant may submit additional evidence to the Development Review Committee within 20 working days following the transmission of the Development Review Committee's recommendations to the applicant. Within 20 working days following the receipt of the additional evidence by the Development Review Committee, it shall then transmits its written response to the additional evidence to the applicant. The time to appeal to the City Council shall begin to run upon the applicant's receipt of the response from the Development Review Committee.~~

Sec. 3.29. Sec. 4-44.—Overall development plan review.

~~(a) (a)~~—*Procedures.* After a ~~sketch~~concept plan review has been completed or omitted pursuant to section ~~4-433.28~~, an overall development plan application shall be filed, processed and reviewed pursuant to sections ~~3.4-24~~ and ~~4-253.18~~. The application and exhibits shall be consistent with the recommendations developed by the Development Review Committee during the ~~sketch~~concept plan review, if applicable.

~~(b) (b)~~—*Required submittals.* The application shall include the following supporting information:

~~(1) (1)~~—~~Information submitted for sketch plan review. All items required for sketch plan review under section 4-43(2).~~

~~(1) (2)~~—General information—:

~~a. a.~~—Name of subdivision; name, address, telephone number of the subdivider, subdivision designer, professional engineer and registered surveyor;

~~b. b.~~—A signed and sealed survey depicting the proposed lots, adjacent rights-of-way, 5-foot interval contours, legal description, all on-site and adjacent off-site improvements (i.e., structures, sidewalks, streetlights, fire hydrants, etc.);

~~c. c.~~—Total acreage in tract, acreage in public or other land usage, total number of lots, linear feet in streets;

~~d. d.~~—Names and location of adjoining subdivisions and streets;

~~e. e.~~—Other supplemental materials or any deed restrictions or protective covenants for the subdivision and any other information considered by either the applicant or the Development Review Committee to be pertinent to the review of the overall development plan.

~~f. (3)~~—Parcel ID

~~(2)~~ Existing site data.

~~a. a.~~—Property lines, rights-of-way, pavement widths, easements, streets, driveways, railroads, utility transmission lines, storm sewers, ditches and culverts, sanitary sewers, water mains, bridges, buildings, bulkhead and bulkhead lines, and adjacent rights-of-way;

~~b. b.~~—Wooded, wetland, and 100-year floodplain areas, marshes, watercourses, ponds, and other similar conditions affecting the site;

~~c. c.~~—Topography of the site at not more than two-foot vertical contour intervals based on mean sea level data furnished by a professional engineer or surveyor;

~~d. Soil borings if required;~~

~~e. GPS coordinates.~~

~~(3) (4)~~—Proposed site data.

~~a. a.~~—Street rights-of-way and pavement widths;

- ~~b. b.~~—Other rights-of-way or easements;
- ~~c. e.~~—Schematic plans of all underground utilities, including but not limited to sanitary sewers, storm sewers, water lines or electric lines if located underground; schematic details indicating proximity and/or connections to existing systems or proposals for development of new systems;
- ~~d. d.~~—Proposals for dikes or any created water bodies or changed watercourses;
- ~~e. e.~~—Locations of bulkheads and bridges, if any;
- ~~f. f.~~—Typical lot dimensions;
- ~~g. g.~~—Parks, school sites, conservation areas, open spaces, and other public uses, if any;
- ~~h. h.~~—Designation of areas to be used for purposes other than residential and public, if any;
 - ~~i.~~—~~Surface drainage patterns with direction of flow and method of disposal on site and off site;~~
 - ~~i. j.~~—Approximate spot elevations sufficient to indicate proposed grading of the streets and landscapes; and
 - ~~j. k.~~—Plans and information required pursuant to all other applicable provisions of this Code;
 - ~~l.~~—~~Tentative construction schedule for the proposed development, including, if applicable, a tentative schedule for phasing construction, the date potable water facilities are needed to serve the proposed development and a commitment from the appropriate potable water provider, demonstrating that adequate capacity shall be available to service the proposed development at the time of impact;~~
 - ~~m.~~—~~The date sanitary sewer facilities are needed to service the proposed development and a commitment from the appropriate sanitary sewer system provider that adequate capacity shall be available to service the proposed development at the time of impact.~~

Sec. 3.30. Sec. 4-45. – Preliminary plat and construction plan review.

After issuance of an overall development plan development order, the developer may file an application for a preliminary plat and construction plan (PPLPPR) development order. The PPLPPR shall be filed, processed and approved pursuant to sections 3.4-24 and 4-253.18. The application shall be consistent with the approved overall development plan and the requirements of this Code.

(a) (1)—*Procedure and required submittals.* An application for preliminary plat and construction plan review, the proper fee, and sufficient copies of the exhibits, as determined by the LDMGMD, shall be filed with the LDMGMD. Exhibits shall include:

(1) a.—General information.

~~1.~~—~~All plans shall be submitted on 24 inch x 36 inch sheet sizes.~~

- ~~a. i.~~—Name of subdivision; name, address, telephone number of the subdivider, subdivision designer, professional engineer and registered surveyor;
- ~~b.~~ Total acreage in tract, acreage in public or other land usage, total number of lots, linear feet in streets;
- ~~c.~~ Names and location of adjoining subdivisions and streets;
- ~~d.~~ Other supplemental materials or any deed restrictions or protective covenants for the subdivision and any other information considered by either the applicant or the Development Review Committee to be pertinent to the review of the preliminary plat and construction plan;

e. Parcel ID of the subject property;

f. Construction plans shall be submitted in a format and scale approved by the City Development Engineer.

g. ~~ii.~~—A preliminary plat shall be submitted in the same format as required for final plats by F.S. ~~ch.~~-177, and by the applicable provisions of this Code.

h. 2.—All existing site data required by Sec. 3.29(b)(2); and

i. A signed and sealed survey of the subject property, prepared by a surveyor having a valid state professional surveyor and mapper license, showing the boundaries of the project must be submitted. Said survey must include the width of the right-of-way of the street on which the property is situated and those of the closest streets in both directions together with dimension ties to the centerline of the rights-of-way. It must also include any buildings on the property, any existing streets or roads (whether by plat, deed, easement or physically on-site), watercourses and section lines abutting the property or included in the legal description and any known easement. When any public corner, required by F.S. ~~ch.~~-177, part III, as amended, to be reported, is used in the boundary survey, the certified corner report number must be depicted on the survey drawing. If a new report is required by the statute or in a case where the corner has not previously been reported, a copy of the new report must be attached to the survey if the survey is submitted before the certified corner report number is available. Said survey must be certified as meeting the requirements of F.A.C. ~~ch.~~-61G17-65J-17, pursuant to F.S. § 472.027, as amended.

(2) b.—Proposed site data and construction details.

a. 1.—All proposed data required by Sec. 3.29(b)(3).

b. Street rights-of-way, pavement widths, grades and elevations, street names, plans, profiles, and, ~~when requested by the City Development Engineer,~~ cross sections.

c. 2.—Other rights-of-way or easements, including locations, dimensions and purposes.

d. 3.—Plans for all underground utilities, including but not limited to sanitary sewers; storm sewers; water lines; and electric lines showing connections to existing systems, or proposals for developing new water supply; storm drainage; and sewage disposal systems; storm and sanitary profiles; and, ~~when required by the City Development Engineer based on site conditions,~~ cross sections; and inverts and top elevations of structures.

e. 4.—Contour changes, dikes or any created water bodies or changed watercourses.

f. 5.—Bulkheads and bridges; engineering plans, and cross sections.

g. 6.—Street centerline dimensions, scalar block and lot layouts, lot and block numbers.

h. 7.—Areas to be used for purposes other than residential and public; and with the purposes, location and dimensions of each indicated.

i. 8.—Information on essential services, including electric or gas services, including a commitment from the provider that adequate electric or gas service, where appropriate, will be available prior to issuance of the development order.

(b) (2)—*Developer's option to commence construction.* The developer may elect to commence construction of the subdivision after the preliminary plat development order has been issued and may

at the same time apply for a final plat ~~development order~~ or may apply for a final plat ~~development order~~ prior to commencement of construction.

(3) ~~Development permits required prior to commencement of construction.~~ No construction shall commence nor shall an application for a final plat ~~development order~~ be accepted unless a preliminary plat development order has been issued. If the developer elects to commence construction prior to or concurrently with final plat approval, ~~he~~ the developer shall notify the City Manager or GMD of that intention. The City Manager shall then issue a development permit authorizing the commencement of construction pursuant to the approved construction plans; provided all other permits from federal, state or regional agencies have been issued.

~~(c) Sec. 4-46.-~~

Sec. 3.31. Final plat review.

After the preliminary plat development order has been issued pursuant to section ~~4-453.30~~, the developer may submit an application for a final plat ~~development order~~. No improvements, including streets, shall be accepted and maintained by the City unless and until the final plat has been approved by the City Council, and has been duly recorded by the clerk of the circuit court in the ~~county~~ County. The clerk shall record only those final plats which have been submitted for recording by the City Manager.

~~(a) (1) Procedures.~~ An application for a final plat ~~development order~~ shall be filed, processed and approved pursuant to section ~~3.4-25~~. The submittals shall be consistent with the issued preliminary plat development order and shall include any conditions.

(1) a.—The developer shall submit as the final plat only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time. Such portion shall conform to all requirements of this Code.

~~b.—The developer shall submit an appropriate number of blue line prints, as determined by the LDM, of the final plat to the LDM.~~

(2) e.—The final plat shall be prepared by a currently registered land surveyor at a ~~scale of one inch equals 100 feet, or such other scale approved deemed appropriate~~ by the City ~~registered land surveyor.~~ Surveyor. All final plats shall be prepared on standard sheet sizes as required by F.S. ~~ch.~~ 177, as amended, and shall be 22 inches x 28 inches, including a three-inch binding margin on the left side and a one-inch margin on the other three sides. To ensure legibility, all lettering upon the plat shall have a minimum height of 0.10 inches.

~~(b) (2) Required submittals.~~

(1) a.—The following information shall be shown on the submittals:

a. 1.—Name of subdivision, date of survey, north point and graphic scale.

b. 2.—A vicinity map drawn at scale of one inch equals 400 feet, or other scale deemed appropriate by the City Development Engineer.

c. 3.—Names and locations of all adjoining or interior subdivisions, City limit lines, bulkhead lines, property lines, rights-of-way and easements.

d. 4.—Accurate location and legal description of all monuments, markers and control points. The legal description of the property being platted shall appear on sheet one of the final plat.

e. 5.—Sufficient survey data to readily determine and reproduce on the ground every straight or curved boundary line, lot line, right-of-way line, easement line, bulkhead line and setback line, including, but not limited to, linear dimensions, bearings or deflection angles, radii, arcs and central angles. All dimensions shall be measured to the nearest 1/100 of a foot and all angles to the nearest second of a degree.

f. 6.—All proposed rights-of-way, easements and areas to be dedicated to public use with the purpose of each stated.

g. 7.—Areas to be used for purposes other than residential and public, if any, with the purpose, location and dimensions of each indicated.

h. 8.—Lot and block numbers, street names and all right-of-way or easement widths.

i. 9.—Signed certificates shall appear on sheet 1 of all final plats. Such certificates shall be in accordance with the format and specific language set forth in this Code. The following signed certificates shall be completed on the final plat prior to submission: dedication, joinder and consent to dedication, all required acknowledgements, certificate of surveyor, certificate of approval by a City registered land surveyor, certificate of approval by the City Council, ~~and~~ certificate of approval by the City Manager, and Volusia County Clerk of Court.

j. 10.—The final plat shall include such additional information as may be required by F.S. ~~ch.~~ 177, as amended.

(2) b.—The following information shall be provided on sheets separate from the final plat:

a. 1.—Name, address and telephone number of the subdivider, subdivision designer, professional engineer, registered surveyor, abutting property owners, and mortgagees of the property.

b. 2.—A title opinion which meets the requirements of F.S. ~~ch.~~ 177, as amended, and includes other encumbrances which affect the property.

c. 3.—Any deed restrictions or protective covenants, with the appropriate filing fees.

d. 4.—Such engineering plans, cross sections, plan and profile drawings of streets, bulkheads, bridges, sidewalks, water distribution systems, water treatment plants, sewerage collection systems, sewage treatment plants, and storm sewer systems as required by the City.

5.—~~A copy of the final plat reduced to 8½ inches x 11 inches.~~

(3) e.—If the developer elects to construct the improvements after the issuance of the final plat, the following information shall be provided in addition to ~~subsections (2) paragraphs (1) and b(2) of this section~~subsection:

a. 1.—A ~~signed copy of an executed construction contract or signed~~ and sealed professional engineer's estimate of the total construction cost ~~or a signed contract~~ which encompasses all ~~proposed~~required improvements.

2.—A performance guarantee in accordance with section ~~4-111(a)(1).~~

b. 3.—~~33.~~

c. All items required in subsections ~~(2)b(4)a. – d.1–4~~ of this section must be provided after subdivision improvements have been completed.

(4) d.—Upon completion of construction of the required improvements, the ~~following~~ information provided for in Sec. 3.34(c) shall be provided in addition to ~~subsections (2) paragraphs (1) and b(2) of this section~~subsection.

1.—~~A signed and sealed professional engineer's certification of the constructed improvements and the total construction cost. If fire hydrants were installed, the professional engineer must certify that the water distribution system of the development meets the National Fire Protection Association capacity requirements for fire hydrants.~~

- ~~2.—A maintenance guarantee as provided in section 4-111(a) in the amount of 15 percent of the total construction cost acceptable to the City Manager and the City Development Engineer.~~
- ~~3.—One Mylar and two sealed bluelines as-built construction plans signed by the professional engineer which encompass all required improvements. If the as-built construction plans were prepared on an appropriate CAD system, the applicant shall provide such computer disks to the LDM.~~
- ~~4.—Adequate test reports signed and sealed by a professional engineer, as required by the City Development Engineer, and to assure that all improvements substantially meet City standards and specifications.~~

(c) (3)—Recording requirements.

(1) a.—*Recording period.* No plat may be recorded except during the effective period of a final plat.

(2) b.—*Platted dedications.* All streets, alleys, easements, rights-of-way, parks, school sites and public areas shown on an accepted and recorded plat, unless otherwise stated, shall be deemed to have been dedicated or granted, as appropriate, to the public for the uses of the public. The recorded plat shall constitute, unless otherwise stated, an acceptance of said offer to dedicate, grant or reserve. Reservations must be clearly indicated as such, and must include the word "reservations."

(3) c.—*Necessary documents.* Prior to recording, an applicant shall furnish the City with those documents necessary to evidence and ensure compliance with such requirements, standards, restrictions or conditions of this Code as requested by the City. Such documents may include, but are not limited to, bonds or other security, agreements, restrictive covenants, deeds and easements, if evidence of compliance with such requirements, standards, restrictions or conditions is not appropriately contained in the preliminary plat development order or on the final plat to be recorded. The final plat and declaration of covenants, conditions and restrictions shall contain the language required by and comply with ~~sec. 4-187~~Chapter 10 concerning stormwater maintenance. The declaration of covenants, conditions and restrictions shall give the city enforcement rights as an intended third party beneficiary to enforce any provision required by this code and any provision required as a condition of development approval.

(4) d.—*Recordation of plats.* Plats shall be recorded in the following manner:

a. 1.—All recording fees, documents and the original plat shall be submitted to the LDMGMD. The ~~LDM and~~ applicant shall then transmit the required fees and documents to the clerk of the circuit court, hereinafter referred to as the clerk. The clerk shall, after recording the plat, make three Mylar copies and a number of ~~bluelines~~ as determined by the LDMGMD. Also, if the application was prepared on an appropriate CAD/GIS system, the applicant shall provide ~~such computer disk~~electronic copies to the LDMGMD.

b. 2.—The original plat and one Mylar copy of the plat will be retained by the Clerk. One Mylar copy will be returned to the applicant.

c. 3.—No plat of lands in the City subject to these regulations shall be recorded, whether as an independent instrument or by attachment to another instrument entitled to record, unless and until such plat has been approved by the City Council ~~and a final plat development order has been issued.~~

d. 4.—The City Manager shall obtain a statement that all current and previous taxes have been paid in accordance with F.S. § 197.192, as amended.

([Ord. No. 11-13, § 3, 11-6-2013](#))

~~Sec. 4-47.~~

Sec. 3.32. Plat certification and dedications.

Following are the plat certifications and dedications of the city:

USE OF DEDICATIONS

A dedication does not transfer ownership of property but is only a perpetual permission to enter upon and to use such areas, by the general public, government personnel (as representative of the public), and utility company personnel (authorized by the government) for the placement, maintenance and use of facilities within each area in accordance with its purpose as described on the plat.

In using the following dedication forms, delete any of the named facilities not involved on the plat and add any other desired to be dedicated to the use of the public, such as retention areas, bike or riding easements, etc.

In cases of multiple ownership, use the form for two persons and add the additional names in the second line and add spaces for appropriate signatures.

~~For the man and wife ownership, add a comma and his wife after her name in the second line.~~

The exact name of the subdivision should be placed in the blank following the word "entitled."

(Single Owner)
DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That, I, _____, _____, being the owner in fee simple of the lands described in the attached plat, entitled _____, _____, located in the City of DeBary, Florida, do hereby dedicate said lands and plat for the uses and purposes therein expressed and dedicate all Streets, Avenues, Roads, Alleys, Arterials, Parks, Canals, Utility Easements, Utility Rights-of-Way, and Drainage Easements shown or described thereon to the perpetual use of the Public, for proper purposes, and IN WITNESS WHEREOF, I, _____, _____, hereunto set my hand and my seal on this _____ day of _____ / _____ / _____ A.D. 20____.

Signed _____	(Seal)
Signed, sealed and delivered in the presence of:	

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledging), who is personally known to me or who has produced (type of identification) as identification.

_____ (Signature of person taking acknowledgment)	
_____ (Name typed, printed or stamped)	
_____ (Title or rank)	
_____ (Serial number, if any)	

(Two Persons)
DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That we, _____ and _____, _____, _____, being the fee simple owners of the lands described in the attached plat, entitled _____ located in the City of DeBary, Florida, do hereby dedicate said lands and plats for the uses and purposes therein expressed and dedicate all Streets, Avenues, Roads, Alleys, Arterials, Parks, Canals, Utility Easements, Utility Rights-of-Way, and Drainage Easements shown or described thereon to the perpetual use of the Public, for proper purposes, and

IN WITNESS WHEREOF, We set our hands and seals on this _____ day of _____, _____ / _____ / _____, A.D. 20____, _____.

Signed	_____	(Seal)
	_____	(Seal)
Signed, sealed and delivered in the presence of:		

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledging), who is personally known to me or who has produced (type of identification) as identification.

	_____ (Signature of person taking acknowledgment)
	_____ (Name typed, printed or stamped)
	_____ (Title or rank)
	_____ (Serial number, if any)

(Corporation)
DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That _____ incorporated under the laws of the State of _____ being the owner in fee simple of the lands described in the attached plat, entitled _____, _____, located in the City of DeBary, Florida, hereby dedicates said lands and plat for the uses and purposes therein expressed and dedicates all Streets, Avenues, Roads, Alleys, Arterials, Parks, Canals, Utility Easements, Utility Rights-of-Way, and Drainage Easements shown or described thereon to the perpetual use of the Public, for proper purposes, and

IN WITNESS WHEREOF, has caused these presents to be signed and attested to by the officers named below and its corporate seal to be affixed hereto on this _____ day of _____ / _____ / _____ A.D. 20____, _____.

(Name of Corporation) _____

By _____ (Corporate Seal)

Attest:

	_____ Title	
--	----------------	--

Signed, sealed and delivered in the presence of:

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced (type of identification) as identification.

	_____ (Signature of person taking acknowledgment)
	_____ (Name typed, printed or stamped)
	_____ (Title or rank)
	_____ (Serial number, if any)

(Individual)
JOINDER AND CONSENT TO DEDICATION

I, _____, hereby certify that I am the holder of a Mortgage, Lien, or other encumbrance upon the property shown and described in the attached plat, entitled _____ located in the City of DeBary, Florida, and that I hereby join in, and consent to, the dedication, shown on the plat, of the lands therein, and described by the owner thereof, and agree that my Mortgage, Lien, or other encumbrance, which is recorded in Official Records Book _____, at Page _____, of the Public Records of Volusia County, Florida, shall be subordinate to the said dedication.

Signed and Sealed on this _____ day of _____, _____, A.D. 20____.

By _____	(Seal)
Signed, sealed and delivered in the presence of:	

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledging), who is personally known to me or who has produced (type of identification) as identification.

	_____ (Signature of person taking acknowledgment)
	_____ (Name typed, printed or stamped)
	_____ (Title or rank)
	_____ (Serial number, if any)

(Two Persons)
JOINDER AND CONSENT TO DEDICATION

WE, _____, _____, and _____, hereby certify that we are the holders of a Mortgage, Lien or other encumbrance upon the property shown and described in the attached plat, entitled _____ located in the City of DeBary, Florida, and that I hereby join in, and consent to, the dedication, shown on the plat, of the lands therein, and described by the owner thereof, and agree that our Mortgage, Lien, or other encumbrance, which is recorded in Official Records Book _____, _____, at Page _____, _____ of the Public Records of Volusia County, Florida, shall be subordinated to the said dedication.

Signed and Sealed on this _____ day of _____ / _____ / _____ A.D. 20____.

By _____	(Seal)
By _____	(Seal)
Signed, sealed and delivered in the presence of:	

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledging), who is personally known to me or who has produced (type of identification) as identification.

_____ (Signature of person taking acknowledgment)	
_____ (Name typed, printed or stamped)	
_____ (Title or rank)	
_____ (Serial number, if any)	

(Corporation)
JOINDER AND CONSENT TO DEDICATION

_____ incorporated under the laws of the State of _____ hereby certifies that it is the holder of a Mortgage, Lien, or other encumbrance upon the property shown, and described in the attached plat, entitled _____, _____, located in the City of DeBary, Florida, does hereby join in, and consent to, the dedication, shown on the plat, of the lands therein, and described by the owner thereof, and agrees that its Mortgage, Lien, or other encumbrance, which is recorded in Official Records Book _____, _____, at Page _____, _____ of the Public Records of Volusia County, Florida, shall be subordinated to the said dedication.

IN WITNESS WHEREOF: _____ Has caused these presents to be signed in its Corporate Name by its _____, _____, its Corporate Seal to be hereunto affixed and attested by its _____ this _____ day of _____ / _____ A.D. 20____.

Name of Corporation

By _____ (Title)	SEAL
Attest _____ (Title)	
Signed, sealed and delivered in the presence of:	

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced (type of identification) as identification.

	_____ (Signature of person taking acknowledgment)
	_____ (Name typed, printed or stamped)
	_____ (Title or rank)
	_____ (Serial number, if any)

CERTIFICATE OF PROFESSIONAL SURVEYOR AND MAPPER

KNOW ALL MEN BY THESE PRESENTS, That the undersigned, being a professional land surveyor and mapper licensed in the State of Florida, does hereby certify that this plat was prepared under my direction and it complies with all of the survey requirements of F.S. ch. 177.

	Seal
Dated _____	By _____
	LS# _____

CERTIFICATES OF APPROVAL

Certificate of Approval by ~~Land Development Manager~~ Growth Management Director

THIS IS TO CERTIFY, THAT ON _____ / _____ / _____ This plat was approved.

	By- _____ Land Development Manager or His Authorized Representative
--	--

Certificate of Approval by County Registered Surveyor

THIS IS TO CERTIFY, THAT ON _____ / _____ / _____ This plat was approved.

	By- _____ County Registered Surveyor
--	---

Certificate of Approval by City Council of the City of DeBary, Florida

THIS IS TO CERTIFY, THAT ON _____ / _____ / _____ the foregoing plat was approved by the City Council of the City of DeBary, Florida.

_____ Mayor of the City of DeBary	CITY SEAL
Attest: <u> </u> City Clerk of the City of DeBary	

Certificate of Clerk

I HEREBY CERTIFY, That I have examined the foregoing plat and find that it complies in form with all the requirements of chapter 177, Florida Statutes, and was filed for record on _____ / _____ / _____ at _____ File No. _____.

Clerk of the Circuit Court in and for Volusia County, Florida

~~Secs. 4-48—4-60.— Reserved.~~

~~DIVISION 3.— FINAL SITE PLAN APPROVAL PROCEDURES~~

~~Sec. 4-61.— Final site plan review.~~

~~(a) Approval required. Unless otherwise stated in this Code, granting of a final site plan development order (FSP) is required prior to the issuance of any development permit allowing the commencement of site construction of any development in the City.~~

~~(a) (b) Exempt development. The following activities shall not require compliance with this division, but may be subject to other divisions of this article:~~

~~(1) (1) Construction of a single family home and customary accessory structures on an existing single family zoned lot.~~

~~(2) Construction of a single duplex and customary accessory uses on an existing duplex zoned lot.~~

~~(3) The installation of those improvements which are required to develop a subdivision and for which development permits have been issued pursuant to division 2 of this article.~~

~~(4) Agricultural production practices, which include fencing, drainage, irrigation and other agricultural uses and structures, including portable structures which do not conflict with existing City ordinances.~~

~~(c) On and off site development. The provisions of this division shall be applied to all development which is the subject of an FSP, whether that development is on or off the subject site.~~

~~Sec. 4-62.— Conceptual or final site plan review.~~

~~(a) Necessity for filing.~~

~~(1) All applicants for an FSP may first submit a conceptual site plan application (CPN) to the LDM.~~

~~(2) The LDM shall, within three working days of acceptance of the application, review the application for conformity with this Code and other development regulations and notify the applicant in writing of the results of the review. Thereafter, the applicant may submit an application for an FSP.~~

~~(b) Procedures. An application for an FSP shall be filed and processed pursuant to sections 4-24 and 4-25.~~

~~(c) Required submittals. A CPN or FSP application shall include the following:~~

~~(1) Conceptual site plan application.~~

~~a. a. Statement of ownership of the proposed development, and the names, addresses and telephone numbers of the developer and any project engineers, architects or planners;~~

~~b. Legal description;~~

~~(1) c. Current zoning classification;~~

~~a. d. Schematic representation of proposed use, including building size, shape and location on the site;~~

~~a. e. Schematic representation of vehicular circulation within the site, including driveways, parking areas and loading areas;~~

~~f. Schematic representation of points of connection to the public rights-of-way.~~

~~(2) Final site plan application. An FSP application for small and large scale site plans may be submitted pursuant to sections 4-24 and 4-25 and shall include the following information and exhibits drawn to a scale of not less than one inch equals 50 feet:~~

~~a. Statement of ownership of the proposed development, and the names, addresses and telephone numbers of the developer and any project engineers, architects or planners;~~

~~a. b. Legal description;~~

~~(1) c. Current zoning classification;~~

~~(1) d. Vicinity map at a scale of one inch equals 2,000 feet with sufficient information to locate the property in the field;~~

~~e. A survey of the subject property, prepared by a registered surveyor, showing the boundaries of the project, and any existing streets, buildings, watercourses, easements and section lines;~~

~~(1) f. Floodprone areas;~~

~~(1) g. Water bodies or courses;~~

~~h. Swamp or wetland areas;~~

~~(1) i. A plan, signed and sealed by a state registered professional engineer, containing the title of the project, its date, scale and a north arrow, and illustrating the location of all proposed buildings and structures, access and traffic flow, off-street parking and off-street loading areas, recreational facilities, landscaped and buffer areas, refuse collection areas, proposed utilities, and existing and proposed topography at one foot contour intervals;~~

~~j. Total acreage, project density, and the percentages of total acreage for each permitted use, for building coverage and for impervious surface coverage;~~

~~(1) k. Statement of the proposed number of off-street parking and loading spaces and how that number was calculated;~~

~~l. Statement of the proposed arrangements for the maintenance of common open space areas and facilities;~~

~~(1) m. Location and height of all structures and total floor area with dimensions to lot lines, and designation of use;~~

~~(1) n. Building separations;~~

- ~~(1) o. Vehicular circulation system for bicycles, cars and other required vehicle types, with indication of connection to adjacent streets;~~
- ~~(1) p. All adjacent rights of way, with indication of centerline and width, paving width, existing median cuts, driveways and intersections, street light poles and power company facilities;~~
- ~~(1) q. Pedestrian circulation system;~~
- ~~(1) r. Provider of water and sewerage facilities;~~
- ~~(1) s. Existing and proposed fire hydrant locations and water main sizes;~~
- ~~(1) t. Direction of drainage flows and nature of retention facilities;~~
- ~~(1) u. Indication of existing native vegetation that will be preserved;~~
- ~~(1) v. Identify known wildlife corridors for federal and state endangered species, threatened species or species of special concern;~~
- ~~(1) w. Identify known plants and animals which inhabit the site that are listed as federal and state endangered species, threatened species or species of special concern;~~
- ~~(1) x. Identify known historic and archaeological sites;~~
 - ~~y. Tentative construction schedule for the proposed development, including, if applicable, a tentative schedule for phasing construction, the date potable water facilities are needed to serve the proposed development and a commitment from the appropriate potable water provider, demonstrating that adequate capacity shall be available to service the proposed development at the time of impact;~~
 - ~~z. The date sanitary sewer facilities are needed to service the proposed development and a demonstration and commitment from the appropriate sanitary sewer system provider, that adequate capacity shall be available to service the proposed development at the time of impact;~~
- ~~(1) aa. Location of solid waste disposal system and provisions for accessibility to refuse collection and recycling trucks;~~
- ~~(1) bb. Off street parking, loading, bicycle parking and mass transit loading (bus stop) areas and provisions for accessibility to vehicles of the required type;~~
- ~~(1) cc. Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles of the required type;~~
- ~~(1) dd. Design of all paved areas, including dimensions, radii and elevations, as well as plans for traffic control signs and pavement markings;~~
- ~~(1) ee. Location of all drainage features, and retention areas; lowest floor elevation of proposed buildings;~~
- ~~(1) ff. Plans and specifications required pursuant to all other applicable provisions of this Code;~~
- ~~(1) gg. Computation of pervious and impervious area, in square footage and percentage;~~
- ~~(1) hh. Building floor areas, elevations, sizes, types and typical floor plans;~~
- ~~(1) ii. Plans for signs, which at a minimum shall include location, size and setbacks;~~
- ~~(1) jj. A landscaping plan signed and sealed by a landscape architect meeting the requirements of this Code;~~

~~(1) kk. Location and plans for any outside storage areas;~~

~~(1) ll. Any additional information deemed necessary by any reviewing department or agency, or deemed appropriate by the developer;~~

~~mm. If the FSP was prepared on a geographic information system or CAD system, the applicant shall provide such computer disks to the LDM;~~

~~nn. Solid waste container and enclosure. Trash storage facilities in all commercial and industrial districts shall be screened by the owner so as to completely conceal such facilities from the view of persons in adjacent public rights-of-way normally reserved for vehicular traffic. This screening shall conform generally to the aesthetics and architectural characteristics of the adjoining principal structure or structures, and the use of natural materials and landscaping is encouraged. A dumpster pad detail and location plan shall be submitted to the zoning department for approval and permitting before any dumpster is located within the City limits. The specifications shall be as follows: A concrete pad shall be required, 12 foot wide and 16 foot long, with a six foot high screened enclosure with a lockable gate. Said gate and screen are to be located outside of and not on the pad. The angle of the pad with the driving lane shall allow for a straight line maneuvering distance of 55 feet. A final inspection shall be required to ensure proper installation of the dumpster.~~

~~One or more of the above items of information may be waived by the City Manager at the time of application if deemed unnecessary in a particular case. The waived item may still be subsequently required by any reviewing department or agency if they deem it necessary.~~

~~(Ord. No. 02-12, § 2(Exh. A), 9-5-2012)~~

~~Sec. 4-63. Conformity to recorded plat and zoning regulations.~~

~~(a) (a) Conformity to recorded plat. If a FSP includes land previously platted, it shall conform to such plat.~~

~~(b) Conformity to zoning regulations. Development depicted in a FSP shall conform to all applicable zoning regulations.~~

~~Secs. 4-64—4-80. Reserved.~~

~~DIVISION 5.—~~

Division 6. INSTALLATION, GUARANTEE AND INSPECTION OF REQUIRED IMPROVEMENTS

Sec. 3.33. Sec. 4-111. Developer's guarantee. (or surety).

~~(a) (a) Required or guaranteed improvements. Neither a final plat development order nor a certificate of occupancy for building development shall be issued until the developer has installed the improvements required by this Code or has guaranteed that such improvements will be installed.~~

~~(1) (1) The developer's guarantee, (or surety), in lieu of installation of improvements, shall be in an amount that is 115 percent of the construction costs of all improvements, including landfill, as estimated based per an executed construction contract, calculated, signed & sealed by the developer's professional engineer or architect and verified by the City Development Engineer or City Manager as appropriate. Such guarantee shall be in the form of one or more of the following: certified check; bond; cash deposited in an escrow account; a first mortgage on his property; letter of credit; or such other guarantee approved by the City Attorney. Such guarantee may be reduced from the original guarantee on a pro rata basis according to the value of any improvements installed as verified by the City Development Engineer or City Manager, as appropriate.~~

~~(2)~~ ~~(2)~~—In the case of building development pursuant to a granted development order, only landscaping and/or tree replacement improvements may be guaranteed by the developer prior to the issuance of a certificate of occupancy. All other required improvements shall be installed and approved prior to the issuance of a certificate of occupancy.

~~(b)~~ ~~(b)~~—*Installation of improvements.* A state registered professional engineer or architect, as appropriate, shall be employed by the developer to design all required improvements and to inspect and certify that the installation of all required improvements is in conformity with the requirements and standards set forth in this Code and all other specifications or requirements of the City.

~~(c)~~ ~~(c)~~—*Required improvements.* The following improvements are considered required for the purposes of this division:

~~(1)~~ ~~(1)~~—Survey reference markers and monuments;

~~(2)~~ ~~(2)~~—Streets, driveways and off-street parking and loading areas;

~~(3)~~ ~~(3)~~—Storm drainage system;

~~(4)~~ ~~(4)~~—Sidewalks, walkways and bicycle facilities;

~~(5)~~ ~~(5)~~—Sanitary sewage disposal system;

~~(6)~~ ~~(6)~~—Water supply systems;

~~(7)~~ ~~(7)~~—Street name signs, pavement markings, regulatory signs, and other traffic control devices;

~~(8)~~ ~~(8)~~—Bridges;

~~(9)~~ ~~(9)~~—Bulkheads;

~~(10)~~ ~~(10)~~—Erosion control;

~~(11)~~ ~~(11)~~—Utility lines;

~~(12)~~ ~~(12)~~—Curb and gutter;

~~(13)~~ ~~(13)~~—Landscaping, screening, buffers;

~~(14)~~ ~~(14)~~—Tree removal, relocation and replanting;

~~(15)~~—Any other required improvements.

~~(15)~~ ~~Sec. 4-112.~~

Sec. 3.34. Inspections and tests.

~~(a)~~ ~~(a)~~—*General.* Appropriately staged inspections during construction shall be called for. It shall be the responsibility of the developer or the developer's contractor to notify the City Development Engineer or City Manager and arrange for these inspections. Tests called for under this section shall be performed by the City or by a competent engineering testing firm, which shall have an engineer registered in the state as one of the responsible officials of the firm.

~~(b)~~ ~~(b)~~—*Inspections.*

~~(1)~~ ~~(1)~~—The developer shall provide written authorization which will enable City staff personnel to enter upon the property to be developed and make periodic inspections at each stage of construction. During construction the developer shall notify the City Development Engineer or City Manager, where appropriate, that a City inspector can be sent to make an inspection. The City shall furnish an inspector at the site within a reasonable length of time, during normal working days and hours.

~~(2)~~ ~~(2)~~—The purpose of these inspections is to ensure that construction is in compliance with the granted development order. The City accepts no responsibility or liability for the work, or for any contractual conditions involving acceptance, payment or guarantees between any contractor and the developer, by virtue of these inspections. The City assumes no responsibility or commitment guaranteeing acceptance of the work, or for subsequent failure, by virtue of these inspections.

~~(3)~~ ~~(3)~~—Upon completion of the improvements and receipt by the City Engineer of the documents required in subsection (c) of this section, the developer may request, and the City Manager will schedule, a final on-site inspection of the improvements by all applicable department representatives collectively on a date specified by the developer. The documents required in subsection (c) of this section shall be submitted by the developer at least five days prior to the inspection date. The developer shall be represented at the inspection as well as the developer's engineer and contractor.

~~(4)~~ ~~(4)~~—However, if any aspect of the work being performed does not comply with acceptable standards, corrections shall be required by the City inspector as a condition for City acceptance. All improvements shall be installed, and have the approval of the City Development Engineer and/or other City agencies prior to acceptance by the City Council, where required, or issuance of a certificate of occupancy.

~~(c)~~ ~~(e)~~—*Completion of installation of required improvements.* Upon completion of the above inspections or prior thereto, the following, where required, shall be provided to the City Development Engineer and/or other appropriate City agencies:

~~(1)~~ ~~(1)~~—Test results.

~~(2)~~ ~~(2)~~—Maintenance guarantees, in accordance with provisions of this Code, for facilities to be dedicated or conveyed to the City or a property owners' association.

~~(3)~~ ~~(3)~~—As-built drawings for utilities ~~and~~, drainage, pedestrian systems, both on and off site.

~~(4)~~ ~~(4)~~—Certification by the developer's engineers that all improvements were installed in accordance with the granted development order, review of as-builts for compliance with Americans with Disabilities Act as applicable.

~~(5)~~—~~Copy of the surveyor's certificate filed with the clerk or recording office in accordance with the state statutes.~~

~~(5)~~ ~~(4)~~—Electronic as-built construction plans signed and sealed by the professional surveyor which encompass all required improvements, and as-built digital CAD files shall be provided to the GMD.

~~(d)~~ Responsibility during maintenance period for improvements to be dedicated or conveyed to the City or to a property owners' association.

~~(1)~~ ~~(1)~~—Following approval by the City of the construction of improvements to be dedicated or conveyed to the City or a property owners' association, the developer shall be required to maintain the improvements within the development in first-class condition until the City Council accepts the improvements for City maintenance, or they are turned over to a property owners' association for maintenance. Such association shall have all duties and powers necessary to provide for the perpetual maintenance of the improvements. The developer's maintenance period shall be a minimum of one year. During that maintenance period, the developer will be expected to provide any maintenance required, including, but not limited to:

~~a.~~ ~~a.~~—Repair and replacement of any system component, or failed section of pavement, etc.

~~b.~~ ~~b.~~—Correction of design faults.

~~c. e.~~—Control of erosion, replacement of sod, removal of soil washed onto pavement or into drainage system.

~~d. d.~~—Lost, destroyed or disturbed survey improvements.

~~(2) (2)~~—The developer may request the City Council to accept the improvements for maintenance at the time of or after the acceptance of the construction, or during the developer's one-year maintenance period. When this occurs, it shall be the responsibility of the developer to sod all areas of the constructed improvements, where the potential for erosion exists. Such areas which may require sodding shall include but not be limited to shoulders, swales, drainage systems and retention areas. When such sodding is completed in a manner which is satisfactory to the City Development Engineer, the City Council may accept the improvements for City maintenance; provided that all other improvements are in a first-class condition. However, the cash guarantee required by subsection (d)(3) of this section will be retained for the balance of the developer's one-year maintenance period to guarantee all improvements against defects in design, materials and workmanship. The City Council shall not accept the improvements for City maintenance nor release the cash guarantee until it has determined that all improvements are in a first-class and acceptable condition.

~~(3) (3)~~—All improvements to be dedicated or conveyed to the City or a property owners' association shall be covered by a cash maintenance guarantee which shall be provided by the developer, and shall be in the amount of 15 percent of the construction costs of all improvements, including landfill. The form of the guarantee shall be as prescribed in section ~~4-1113.33~~(a)(1) and approved by the City attorney. The developer shall guarantee all improvements against defects in design, material and workmanship, in addition to guaranteeing maintenance for the required period of time.

~~(4) (4)~~—Approximately 60 days prior to the expiration of the maintenance period, the developer shall request the City Manager to schedule an inspection by the City Development Engineer and/or other appropriate City personnel. All deficiencies of design, materials, workmanship and/or maintenance identified during the final inspection shall be corrected by the developer.

~~(5) (5)~~—Upon evidence of correction of all deficiencies by the City Development Engineer and other appropriate City agencies, the City Manager shall recommend, and the City Council may accept those improvements dedicated or conveyed to the City for City maintenance. Those improvements to be conveyed to a property owners' association shall be accepted by the property owners' association pursuant to agreements between the developer and the property owners' association.

~~(6) (6)~~—Upon acceptance of the improvements by the City Council or property owners' association, the maintenance guarantee shall be released to the developer, less any charges for maintenance or corrections incurred by the City during the maintenance period.

~~(e)~~—*Responsibility for maintenance of privately owned improvements.* Any improvements made to private property pursuant to a development permit issued under this Code shall thereafter be maintained by the private property owner and/or lessee or renter to the minimum standards of this Code and the improved plans at his expense. Failure to maintain such improvements shall constitute a violation of this Code.

~~Secs. 4-113 – 4-130. – Reserved.~~

~~(e) Sec. 4-131.~~

Division 7. RIGHT OF WAY UTILIZATIONS PERMIT

Sec. 3.35. Regulations.

~~(a)~~ ~~(a)~~—*Purpose.* The purpose of this division is to regulate the location, installation or adjustment of any facility on or under City rights-of-way, ~~(ROW)~~, traveled ways or easements or other City-owned property (City property), including canals and drainage easements or ditches, by any person.

~~(b)~~ ~~(b)~~—*Permit required.* Any person placing, installing or adjusting any facility on City property shall have been issued a use permit prior to the commencement of construction. A facility includes driveway connection to a City road, and overhead, on and underground utilities.

~~(c)~~ ~~(c)~~—*Jurisdiction.* This division shall apply to and be enforced on all City property.

~~(d)~~ ~~(d)~~—*Application procedure.* Notwithstanding any other provisions of this Code, an application for a use permit shall be filed, processed and approved as follows:

~~(1)~~ ~~(1)~~—An application for a ~~useROW utilization~~ permit shall be filed with the LDD and the required filing fee paid.

~~(2)~~ ~~(2)~~—~~Three copies of the required~~~~Required~~ submittals shall be submitted with the application. The submittals shall meet the requirements of this Code and contain the following information:

~~a.~~ ~~a.~~—A vicinity map showing the work area location at a scale of one inch equals 2,000 feet;

~~b.~~ ~~b.~~—The offset from the centerline of the right-of-way or road to the proposed facility;

~~c.~~ ~~c.~~—The road right-of-way and pavement width;

~~d.~~ ~~d.~~—The distance from the edge of the travelled way to the facility and the location of all other utilities within the work area;

~~e.~~ ~~e.~~—One or more typical cross sections as required by the City Development Engineer to adequately reflect the location and construction details of the proposed facility;

~~f.~~ ~~f.~~—The minimum vertical clearance above or below the road, ground or pavement;

~~g.~~ ~~g.~~—All proposed fire hydrants;

~~h.~~ ~~h.~~—Any other information required by the City Development Engineer.

~~(3)~~ ~~(3)~~—The ~~LDMGMD~~ shall determine the completeness of the application within three days of filing. If the application is determined to be incomplete, it shall be returned to the applicant. If the application is determined to be complete, the ~~LDMGMD~~ shall transmit it to the City Development Engineer.

~~(4)~~ ~~(4)~~—Upon receipt, the City Development Engineer shall review the application. If the application meets all of the requirements of this Code, it shall be approved within seven working days of receipt. Upon such approval, the City Development Engineer shall return the application to the ~~LDMGMD~~ with approval noted by the City Development Engineer or his authorized representative. If the application is denied it shall be returned to the ~~LDMGMD~~, with the reasons for denial noted thereon, within seven working days of receipt.

~~(5)~~ ~~(5)~~—If the application has been approved, the ~~LDMGMD~~ shall issue the use permit immediately. If the application has been denied, the ~~LDMGMD~~ shall immediately notify the applicant. If denied, the applicant or any aggrieved person may refile in accordance with the provisions of this subsection, as for a new application, or the applicant or any aggrieved person may appeal the denial to the City Council, as provided in section ~~4-73.13~~.

~~(6)~~ ~~(6)~~—A guarantee of completion of the permitted construction may be required by the City Development Engineer if in his opinion the proposed construction would constitute a significant traffic hazard if not completed as proposed. Such guarantee shall be the same as established in section ~~4-111(a)(1)~~3.33 and shall be returned to the permittee upon satisfactory completion of construction or shall be used to ensure completion of construction by the City where construction is not satisfactorily completed.

~~(7)~~—The use permit may be revoked by the City Development Engineer for reasons of public safety.

~~(7) Sec. 4-132.~~

Sec. 3.36. Stipulations.

~~(a)~~ ~~(a)~~—*Permissive use.* A use permit is a license for a permissive use only, and the placing of facilities upon City property pursuant to the permit shall not operate to create or to vest any property right in the holder thereof, and the issuance of a use permit does not relieve the permittee of the need for obtaining any other permits that may be required by the appropriate authorities. The permittee shall be responsible for maintenance of all such facilities permitted except for those conveyed to the public and accepted for maintenance by the City.

~~(b)~~ ~~(b)~~—*Assumption of risk.* The rights and privileges herein set out are granted only to the extent of the City's right, title and interest in the land to be entered upon and used by the applicant; and the applicant shall at all times assume all risk of and defend the City from and against any and all loss, damage, cost or expense arising in any manner on account of the exercise or attempted exercise by the applicant of the aforesaid rights and privileges.

~~(c)~~ ~~(c)~~—*Encroachment or interference.* The construction and/or maintenance of a utility or facility shall not interfere or encroach upon the property and rights of a prior occupant.

~~(d)~~—*Relocation or protection of facilities.* In the event of widening, repair, reconstruction or improvement of City property, including but not limited to installation of pavement, drainage structures or sidewalks, the permittee shall, upon notice by the City Development Engineer, relocate or protect existing facilities to clear such construction at no cost to the City.

Sec. 4-133. Supporting regulations.

~~(d)~~ ~~(a)~~

~~(e)~~ *Other.*

(1) Directional Bores SHALL NOT be performed within the right of way on Friday, Saturday, Sunday, or Holidays including any day prior to a Holiday without written County Engineering/Inspector approval.

(2) No Staging/Unloading/Parking of any vehicle(s) is allowed in the right of way or on sidewalks. Any damages to the right of way will be regraded/sodded and sidewalks to be repaired/replaced with 6-inch concrete by the contractor, per ADA Standards.

(3) No trench/excavations shall be left open or unattended overnight within the right of way.

(4) Only Directional bores methods can and must be performed. Pneumatic, Push-Pull, Mole or Missile bores are not permitted under roadways.

(5) Directional bores, Under Roads:

a. From diameters 1-3 inches must be a MINIMUM of 36 inches below edge of pavement.

b. Directional bores 4 inches or greater must be 10 times the diameter of the bore/back reamer, which-ever is greater, below edge of pavement and to extend to the right of way on either side.

- (6) Installation shall be at 36" MINIMUM COVER from top of new utility to existing ground (typical for all installations), or as marked up otherwise by City.
- (7) All directional drill mud/slurry must be cleaned/reclaimed from the right of way/bore pits and disposed of on an approved private offsite /off right of way location.
- (8) Bore logs are to be made available at installation completion upon request
- (9) Other applicable Construction Standards as included in the City code.

Sec. 3.37. Supporting regulations.

(a) City, county, state and federal regulations and specifications. When applicable, the provisions of the latest editions of the following references shall apply:

- (1) ~~(4)~~—City of DeBary Land Development Code;
- (2) ~~(2)~~—FDOT Standard Specifications for Road and Bridge Construction;
- (3) ~~(3)~~—Regulations for the Transportation of Natural and Other Gas by Pipelines (parts 191 and 192, title 49 of the Code of Federal Regulations);
- (4) ~~(4)~~—USDOT Manual on Uniform Traffic Control Devices;
- (5) ~~(5)~~—FDOT Utility Accommodation Guide;
- ~~(6) FDOT Minimum Standards for Streets and Highways;~~
- (6) ~~(7)~~—FDOT Florida Greenbook;
- (7) FDOT Roadway and Traffic Design Standards.
- (8) ~~(b)~~—Volusia County USE Permitting as the City's Utility provider and as may affect any County operated and maintained facility.

Conflict of regulations. In the event of a conflict between the regulations and specifications referred to in subsection (a) of this section, and the provisions of this Code, the most restrictive shall apply.

(b) ~~Sec. 4-134.~~

Sec. 3.38. Qualifications of permittee.

Subject to satisfaction of and compliance with requirements contained herein, a use permit may be issued to the following:

- (a) ~~(1)~~—Utility companies. Utility corporations or companies (including county and municipal utilities) that will be servicing the installed facility.
- (b) ~~(2)~~—Contractors. Contractors responsible for the installation of any utility facility or structure subject to these regulations.
- (c) ~~(3)~~—Private citizens. Private citizens, corporations or organizations with a reasonable and legitimate purpose in using the right-of-way, which purpose poses no threat or danger to the public health, safety or welfare.
- (4) —Underground utility contractors. Underground utility contractors must hold a current county or state general contractor's certificate, or a current county or state plumbing contractor's certificate. The City may require prequalification of the contractor for the type of work to be performed.

~~(d) Sec. 4-135.-~~

Sec. 3.39. Exceptions.

~~(a) (a)~~—*Service connections without pavement cuts.* Scheduled short side service connections, including but not limited to water and sewer hookups with no pavement cut or road crossings and all scheduled maintenance repair (i.e., pole replacement with no change in location or alignment, splice pits, etc.) in the right-of-way where limits of excavation are not in or within six feet of the edge of the traveled way, will not require a use permit; however, prior notification of the commencement of such work shall be given to the City Development Engineer before starting work. Failure to notify may result in a penalty fee as determined by resolution of the City Council.

~~(b) (b)~~—*Relocations requested by the City.* On any City construction project where facilities on City property are requested by the City to be relocated, a use permit may be required. An application shall be submitted by the person responsible for the relocation as required by section ~~4-134~~3.35(b), but no fee will be charged, providing there is no expansion of the facilities involved.

~~(c) (c)~~—*Emergency repair.*

~~(1) (1)~~—Emergency repairs may be performed without obtaining a use permit prior to such repair. Emergency repair work shall be completed in accordance with applicable directives from the City or other authority as expeditiously as possible. During normal City working times, verbal approval for the emergency work shall be obtained from the City Development Engineer. If emergency work is required at night, on weekends or holidays, the City Development Engineer shall be notified of all emergency repair work by 10:00 a.m. the first workday following beginning of such repair work. An application for a use permit shall be submitted within two working days following commencement of emergency repair work. The person, company or utility performing the emergency repair work shall be exempt from the requirements of section ~~4-136~~3.40 for prior notification to other agencies, with exception of gas utility companies, but shall notify those agencies by 10:00 a.m. the day following the commencement of the emergency repair work.

~~(2) (2)~~—Notification to gas utility companies. Notification to gas utility companies shall be accomplished prior to commencement of any emergency work. This may be accomplished by telephone or other expeditious method.

~~(d) (d)~~—*Performance criteria.* For those situations described in subsections (a), (b) and (c) of this section, all work must be performed in compliance with the other provisions of this Code and all other applicable laws and regulations.

~~(e)~~—*City Council approved construction projects.* City construction projects on City property which have been approved by the City Council may comply with the permitting provisions of this Code.

~~(e) Sec. 4-136.-~~

Sec. 3.40. Notification to other agencies.

~~(a) (a)~~—*Notification required by City Development Engineer.* Notification to gas, power, communications, potable water, reclaim water, and sanitary sewer utility companies shall be accomplished prior to commencement of the permitted work. ~~If required~~Required by the City Development Engineer, the applicant shall notify in writing all other users of City property in the immediate vicinity of the permitted work, stating the work proposed by the applicant and enclosing a plan of the permitted work in order to determine if there are any objections to it. Any objections to the permitted work by affected right-of-way users or municipalities must be forwarded in writing to the applicant and to the City Development Engineer within seven days of said letter. Except as herein provided, the City Development Engineer may hold a permit application for a period not to exceed seven days, to allow time for the receipt of objections to the permitted work. The seven-day period

may be waived if the applicant includes proof that other affected right-of-way users have been notified and that said users have no objections to the issuance of the use permit.

~~(b)~~ ~~(b)~~—*Verification of notification.* The applicant shall verify the notification to other users by submitting the proof called for in subsection (a) of this section and completing the section provided in the application for such verification. It is the full and complete responsibility of the applicant to determine that all other users are notified of the proposed work. Any work performed without such notification, shall be at the sole risk of the applicant.

~~(c)~~—*Gas notification number.* Pursuant to the provisions of F.S. § 553.851, as amended, all applicants will indicate on the permit application, if required, the gas notification number immediately following the gas company's name. No permit for excavation of the right-of-way will be issued until the applicant has certified his compliance with F.S. § 553.851(2)(a) and (c), as amended.

Sec. 3.41. Sec. 4-137. – Responsibility for compliance.

The applicant assumes full and total responsibility for compliance with this Code, supporting regulations, additional requirements of the City Council, and any municipal, county, state or federal laws, ordinances or other directives which may apply to the proposed work.

~~Sec. 4-139.~~

Sec. 3.42. Permits and inspections.

- ~~(a)~~ (a)—*Copy to applicant.* Upon approval of the application, one copy of the approved plans and the use permit will be returned to the applicant.
- ~~(b)~~ (b)—*Permit available on site.* The use permit must be available at all times at the work site while work is being performed. Any work in progress on, or use of, City property without a valid use permit available at the site shall be suspended until such time as a valid use permit is produced on the site.
- ~~(c)~~ (c)—*Permit valid for one year.* The permit is valid for a period not to exceed one year. The expiration date will appear on the permit. No work will be performed under an expired permit. Prior to expiration, a request for an extension may be submitted to the City Manager. Extension requests shall be submitted a minimum of 30 days prior to the expiration date of the permit. Only one 90-day extension may be granted.
- ~~(d)~~ (d)—*Modification of permits.* Letter requests for modification of permits will be processed in accordance with provisions of sections ~~4-136—4-138, this section and section 4-140.3.40-3.41~~ and the utility location standards of Chapter 10. The letter requesting modification must contain the appropriate gas company name, the gas notification identification number, and to expedite processing, a statement that the other right-of-way users have no objection to the requested modification.
- ~~(e)~~ (e)—*Inspection and approval of materials and work.* The City Engineer shall have the right to inspect and approve materials and/or phases of permitted work at any time. Final inspection and acceptance of the permitted work by the City Engineer must be obtained prior to completion of the work. Work will be considered incomplete until that portion of the permit indicating final inspection and approval has been signed and dated by the City Engineer.
- ~~(f)~~ (f)—*Notice to City for subterranean road crossing.* The permittee shall notify the City Manager at least 24 hours prior to beginning work, and prior to commencing any subterranean road crossing, whether by open cutting, boring, jacking, pushing, pulling, driving, or some combination of these. The date, time and location regarding these scheduled subterranean crossings must be given at the time of this notification.
- ~~(g)~~ (g)—*Underground facilities.* Underground facilities (buried cable, water lines, etc.) will not be covered until approved by the City Engineer, either through on-site inspection or prior authorization.
- ~~(h)~~ (h)—*Failure to obtain inspections.* Failure of the permittee to obtain the appropriate inspections prior to proceeding with work shall not relieve the permittee from reexcavation or other measures necessary for the inspection of the work.
- ~~(i)~~ (i)—*Correction of noncompliance.* Any and/or all items found not to be in compliance with these regulations will be immediately corrected by the permittee.
- ~~(j)~~ (j)—*Permit termination.* The City Engineer's signature on the completion line on the permit terminates that permit, and no further work may be done under the permit except repairs as directed by the City Manager.

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CHAPTER 3 - ADMINISTRATION AND PROCEDURES

Division 1. *DEVELOPMENT PROCEDURES AND REQUIREMENTS*

Sec. 3.1. General provisions.

- (a) *Purpose.* The purpose of this Code is to establish standards, procedures and minimum requirements for the issuance of all development orders and development permits as required by this Code and to regulate and control the platting and development of land within the City limits, except as otherwise specifically set forth herein; provided, however, it is not the purpose of this Code to regulate any bona fide agricultural production, including, but not limited to, horticulture, citrus, dairy, livestock, poultry, forestry or vegetables.
- (b) *Violations and penalties.* If it is determined by the City Manager that any person is violating any provision of this Code, the City Manager shall notify that person, in writing, indicating the nature of the violation and ordering any action necessary to correct it. The order may include, but not be limited to, a stop work order. Any violation of this Code may be referred to the City Special Magistrate. Any person found guilty of a violation of any of the provisions of this Code, or any lawful order of the City Council, or City Manager, shall be punished in accordance with F.S. § 162.22, or any amendments thereto, with a fine not to exceed \$500. Notwithstanding any other provisions of this Code, a violation of this Code may be abated by any manner as provided by law. Each day the violation continues shall be deemed a separate offense.
- (c) *Injunctive relief.* In addition to any penalty provided by law for the violation of any of the provisions of this Code, the City Council may bring suit in the appropriate circuit court to enjoin, restrain or otherwise prevent the violation of any of the provisions of this Code in any manner, as provided by law.
- (d) *Fee requirements.* Reasonable fees to offset the costs of administration of this Code shall be set by resolution of the City Council. All fees must be paid at the time set out in said resolution.

(e)—(n) Reserved.

(Ord. No. 21-07, § 3, 9-5-2007)

Sec. 3.2. Administration.

- (a) *City Council.* The City Council is the governing body of the City, established and operating in accordance with law. The City Council shall have the following duties and responsibilities under this Code:
 - (1) The City Council shall serve as the Local Planning Agency (LPA) for all purposes and as provided in F.S. 163, pt. II (F.S. § 163.2511 et seq.), and shall perform all duties and comply with the requirements established therein, including responsibility for review of the Land Development Code for consistency with the adopted Comprehensive Plan. The LPA shall include a nonvoting school board representative member for certain comprehensive plan amendments and rezonings as provided by and in accordance with Florida law.
 - (2) The City Council shall review the Land Development Code and shall review applications for land development orders where such review is required by this Code.
 - (3) The City Council shall hear and consider requests for variances from and shall hear appeals concerning the standards of this Code. All decisions of the City Council shall be consistent with the Comprehensive Plan.
 - (4) The City Council shall make all interpretations of the Comprehensive Plan, including determinations that development orders are consistent with the adopted plan. The City Council may provide for delegation of such interpretations to the City Manager and by the City Manager to another party, subject to appeal of interpretation to the City Council.
 - (5) The City Council shall hear and consider requests for special exceptions, as provided herein.
 - (6) The City Council shall hear and consider requests for change in zoning and approval of development agreements (including development agreements under PUD regulations).
 - (7) Action of the City Council shall be by vote of the majority of members present.

- (b) *City Manager.* The City Manager is the official employed by the City Council to be responsible for the day-to-day operation of the City. The City Manager shall have the following duties and responsibilities under this Code:
- (1) The City Manager shall be responsible for the administration and enforcement of this Code. The City Manager may designate other City officers, employees, or agents to perform administrative functions, make determinations, and enforce various provisions. Designation need not be in writing and may be inferred.
 - (2) The City Manager shall prepare and present to the City Council reports on actions to be taken by the City Council, including appeals and requests for rezoning or development plan approval, and may present information items and request direction from the City Council for items where City Council approval is not otherwise required.
 - (3) The City Manager may adopt procedures, and forms for the implementation and enforcement of this Code. Where adopted, such procedures shall be used by City staff, landowners, and developers in the application for, review, and issuance of development orders and development permits, but deviations from such policies or procedures shall not be a basis for invalidation of any development order, development permit, or determination, provided all requirements of this Code have been met.

(Ord. No. 01-99, § 1(104), 11-3-1999; Ord. No. [04-15](#), § II, 12-2-2015)

Sec. 3.3. Development Review Committee.

- (a) *Purpose.* The purpose of this section is to set out the various administrative procedures of this Code and to provide for the establishment of the Development Review Committee.
- (b) *Development Review Committee.*
- (1) *Established.* There is hereby established a Development Review Committee (DRC).
 - (2) *Membership.* Membership of the Development Review Committee shall include the following, or their designated representative:
 - a. The Growth Management Director (GMD), who shall act as chairman;
 - b. Four additional members who shall be appointed by the City Manager.County, local, state or federal agencies may be consulted by the Development Review Committee for advice or recommendations on any matter or application being considered by the Development Review Committee.
 - (3) *Duties and responsibilities.* The duties and responsibilities of the Development Review Committee shall include:
 - a. Reviewing all applications under this Code to:
 - i. Delineate areas of noncompliance with City development requirements; and
 - ii. Define steps necessary to bring applications into compliance with City development requirements.
 - b. Reviewing applications for development orders, or providing recommendations for development orders when such matters are decided by the City Council pursuant to this Code.
 - c. Providing a recommendation to the City Council for amendments to the Zoning Map.
 - d. Providing a recommendation to the City Council for amendments to the Comprehensive Plan's Future Land Use Map.
 - e. -All DRC applications shall have a ten-day (10) review period.
 - f. Performing such additional duties as the City Manager may, from time to time, assign.
 - (4) *Meetings.* The Development Review Committee shall meet at least twice per calendar month at such place as determined by the Development Review Committee. A schedule of the meeting times and places shall be adopted annually by the Development Review Committee. An agenda shall be prepared and distributed to each member and to the applicant at least five working days prior to each meeting. All applicants having requests to be

reviewed by the Development Review Committee shall be invited to attend and participate in the meeting. Such records of the proceedings of the Development Review Committee meetings as required by law shall be kept.

(5) *Responsibilities of the Growth Management Department:*

- a. Being a central intake point for applications;
- b. Reviewing applications for completeness;
- c. Providing liaisons between applicants and the DRC;
- d. Preparing and distributing agendas and reports for meetings of the DRC and the City Council;
- e. Taking and preparing the minutes of all DRC meetings;
- f. Comparing final construction plans and final plats with the approved development order to ensure consistency with one another;
- g. Ensuring all issued development orders and development permits follow the goals, objectives, and policies of the City's Comprehensive Plan; and
- h. Performing such other functions as the City Manager may, from time to time, assign.

(6) *Duties and responsibilities of the GMD.* Duties and responsibilities of the GMD shall include:

- a. Coordinating application review procedures;
- b. Issuing concurrency certificates of capacity;
- c. Administration and management of the department;
- d. Issuing development orders and development permits in compliance with the requirements and procedures of this ordinance; and
- e. Ensuring that final construction plans and final plats are consistent with the approved development order.

Sec. 3.4. Development Review Procedures

All applications and supporting information required by this Code shall be filed with the GMD. All required application fees, as set by resolution of the City Council, shall be paid prior to acceptance of the application. Except as otherwise provided in this Code, the following procedures shall govern the review of such applications:

- (a) *Completeness of application.* The GMD shall review the application to determine its completeness. Within three (3) working days after receipt, he or she shall either accept the application if it is complete and forward to the applicant a notice of acceptance, or reject the application if it is incomplete and forward to the applicant a notice of incompleteness specifying the data missing from the application received.
 - (1) If neither a notice of acceptance nor incompleteness is sent, the application shall be deemed accepted for purposes of beginning the time limits of this division on the fourth working day after the filing of the application.
 - (2) If a notice of incompleteness is sent, the applicant shall resubmit the application with the additional data required. Upon receipt, the GMD shall review the resubmittal application in the manner provided in this subsection for the original application.
- (b) *Distribution of accepted application.* Following acceptance of an application, the GMD shall forward a copy of the application to all review agencies and to any state or federal agency deemed by the GMD to be a concerned agency for the review process.
- (c) *Review responsibilities.* Each member of the City review agency shall prepare a report which sets out, in writing, their comments specifying the exact references to the Code or other regulation being commented on and recommendations regarding the application and shall forward such report to the GMD at or before the meeting of the Development Review Committee held in accordance with this division. The GMD may waive one or more agency

reviews, in whole or in part, under this section upon his or her determination that such a review has already been made regarding the same land and no change in standards or circumstances has occurred which necessitates further review.

- (d) *Review.* Applications shall be reviewed by the Development Review Committee and shall be discussed at a meeting held in accordance with the requirements of Sec 3.3.
- (e) *Application revision.* An application may be revised by the applicant after it has been reviewed by the Development Review Committee. Any application so revised must include a revision date on the plans. If any portion of the review process must be repeated to accommodate the revised application, the time limits prescribed in this division shall be extended but not to exceed 20 working days from the date that the revision has been received.
- (f) *Development order review and final action.*
 - (1) Within 60 working days from the acceptance of an application or revised application, the Development Review Committee shall make one of the following determinations:
 - a. That the application or revised application is in compliance with the requirements of this Code, and shall approve, or recommend approval of the application;
 - b. That the application or revised application is not fully in compliance with the requirements of this Code, stating those conditions which they find are necessary to ensure compliance with this Code, and shall approve, or recommend approval of the application subject to those conditions being met; or
 - c. That the application or revised application is not in compliance with the requirements of this Code, and shall deny, or recommend denial of the application, stating the basis for such denial, or may continue consideration of and final action on the application pending submittal of a revised application.
 - d. This 60-day period shall be tolled upon submittal of comments to the applicant until the applicant has resubmitted and a notice of acceptance issued pursuant to subsection (a) under this Section.
 - (2) An applicant may appeal the Development Review Committee's denial pursuant to Sec. 3.13 and request to have the application considered by City Council.
 - (3) Valid period and issuance of development orders.
 - a. The valid period of any development order shall begin on the date of issuance by the City Manager and shall remain valid for a period of 360 days from the date of issuance.
 - b. Development orders shall be issued by the City Manager within five working days after being notified of the actions of the City Council, the Development Review Committee, provided all applicable outstanding conditions have been met; provided all conditions of approval, if any, have been resolved and that the approved concurrency certificate of capacity, if required, can be or has been issued.
 - (4) Effect of development order.
 - a. If construction of a site development has commenced pursuant to a valid building permit during the valid period of a final site plan development order, construction may be completed in accordance with the approved development order as long as the building permit remains valid.
 - b. If construction of the required improvements in a subdivision development has commenced during the valid period of a preliminary plat development order, the improvements may be completed in accordance with the approved development order beyond the valid period of that development order only if the subdivision final plat development order has been approved by the City Council. Construction of the required improvements in a subdivision shall be completed or shall be guaranteed for completion pursuant to division 5 of this article prior to recording the final plat.

- c. A final plat shall be deemed approved only after the final plat is recorded and upon issuance shall remain valid until the subdivision or any part thereof is abandoned in accordance with the laws of the City and the state.
- d. During the period of 90 days before and 90 days after the expiration of any development order, the developer may request an extension of that valid period from the City Council. Such request shall be submitted to the GMD. The City Council may approve an extension of that valid period for a period of time not to exceed 360 days and may attach such conditions as they determine appropriate.

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. [03-16](#), Exh. A, 1-20-2016)

Sec. 3.5. Development and use of land.

- (a) *Development permit and development order.* No development shall be undertaken within the City without approval and issuance of a development permit or development order pursuant to the provisions of this Code and of other relevant codes and regulations (such as the Building Code). Where indicated by these regulations, a development order approved by the City Manager or City Council shall be required prior to issuance of a development permit.
- (b) *Development plan.* For developments requiring a development plan or site plan under this Land Development Code, and for development situations specifically identified in this Code, a development plan shall be approved before a development permit may be issued.
- (c) *Certificate of occupancy.*
 - (1) No land, water, or building, or any part thereof, shall be occupied or used until a certificate of occupancy is issued finding the use in conformity with this Code. A certificate of occupancy must comply with the terms and provisions of the approved development order and development permit, as well as with the provisions of these regulations.
 - (2) No existing use of land, water, or building, or any part thereof, shall be changed to a different use classification as established in the state building code, until a certificate of occupancy is issued finding that the use as changed is in conformity with this Code.
 - (3) Following a written request, a final inspection shall be made and a certificate of occupancy issued if it is found that the requirements have been met. If the certificate of occupancy is denied, a written statement shall be provided to the applicant with the reasons for refusal, citing the applicable regulations and remedy which may achieve compliance.
 - (4) Where no health or safety hazard is created, a conditional certificate of occupancy may be issued prior to completion of all improvements, pursuant to Section 111 of the Florida Building Code. The conditions may include the submittal of plans and specifications for the required improvements and posting of security to ensure completion. The period for completion shall be provided in the certificate of occupancy, and shall be no more than 60 days. If the improvements are not completed within the time provided, the certificate of occupancy shall be void, and appropriate enforcement action shall be taken by the City Manager.
- (d) *Issuance of development permits while amendment pending.* No development permit or development order shall be issued where an amendment to this Code is pending before the City Council, which amendment, if adopted, would make nonconforming the development authorized by the development order or permit.
- (e) *Agreement to specific provisions.* The City may enter into an agreement with a developer to establish specific provisions governing the use and development of a particular piece of land. Such agreement shall be subject to applicable provisions of law and shall comply with the following:
 - (1) No provision may be included which is contrary to the adopted Comprehensive Plan or which would be tantamount to a rezoning of land.
 - (2) Except where expressly provided in the agreement, no agreement shall have a term of more than five years. Agreements may individually provide for extensions to be approved by the City Council.
 - (3) All Planned Unit Developments (PUDs) shall require an agreement.

- (4) Agreements may modify or limit the use and/or density provisions; may provide for extra or oversized buffers, setbacks, architecture, or landscaping; may restrict the location or design of buildings and other site features; may establish provisions for infrastructure improvements; and may establish operational restrictions on the uses within the planned development.
- (f) *Sewer connection.* A sewer connection for new development shall be provided when a sewerage system is capable of being connected to the plumbing of an establishment or residence, is not under a Department of Environmental Protection moratorium, and has adequate permitted capacity to accept the sewage to be generated by the establishment or residence; and:
 - (1) For a residential subdivision lot, a single-family residence, or an establishment, any of which has an estimated sewage flow of 1,000 gallons per day or less, a gravity sewer line to maintain gravity flow from the property's drain to the sewer line, or a low pressure or vacuum sewage collection line in those areas approved for low pressure or vacuum sewage collection, exists in a public easement or right-of-way that abuts the property line of the lot, residence, or establishment.
 - (2) For an establishment with an estimated sewage flow exceeding 1,000 gallons per day, a sewer line, force main, or lift station exists in a public easement or right-of-way that abuts the property of the establishment or is within 50 feet of the property line of the establishment as accessed via existing rights-of-way or easements.
 - (3) For proposed residential subdivisions with more than 50 lots, for proposed commercial subdivisions with more than 5 lots, and for areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewerage system exists within one-fourth mile of the development as measured and accessed via existing easements or rights-of-way.
 - (4) For repairs or modifications within areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewerage system exists within 500 feet of an establishment's or residence's sewer stub-out as measured and accessed via existing rights-of-way or easements

(Ord. No. 01-99, §§ 1(103), 1(207), 11-3-1999)

Sec. 3.6. Notice requirements.

- (a) For amendments to the text of this Code, or amendments to the city's official zoning map (rezonings) initiated by the city, notice shall include newspaper advertising and other notice required by F.S. 166.041.
- (b) For amendments to the city's official Zoning Map (rezonings) including major amendments to a planned unit development initiated by persons or entities other than the city, the following notice shall be provided:
 - (1) Newspaper advertising and other notice required by F.S. 166.041;
 - (2) At least ten (10) days prior to each public hearing on the proposed rezoning, notice shall be sent by the applicant via certified mail to the owners of all property that is within 300 feet from the boundaries of the property subject to proposed rezoning; and
 - (3) At least ten (10) days prior to each public hearing on the proposed rezoning, a sign notice shall be posted by the applicant conspicuously on the property abutting the right-of-way. For corner lots, the sign notice shall be posted conspicuously on the property abutting the principal street subject to the proposed rezoning.
- (c) For approval or for consideration by the City Council of a special exception, variance, minor amendment to Planned Unit Development or appeal, the following notice shall be provided at least ten (10) days prior to the public hearing on the request:
 - (1) A notice shall be sent by the applicant via certified mail to the owners of all property that is within 300 feet of the property subject to the request;
 - (2) A sign notice shall also be posted by the applicant conspicuously on the property abutting the right-of-way. For corner lots, the sign notice shall be posted conspicuously on the property abutting the principal street subject to the request; and

(3) A notice in a newspaper of general circulation. At a minimum the newspaper notice shall contain the nature of the request, the date, time and location of the public hearing(s) on the request, and the tax parcel identification number(s) for the property subject to the request, as required by F.S. 166.041 as amended.

- (d) Where certified mailed notice or posting is required, notice shall at a minimum contain the nature of the request, the date, time and location of the public hearing(s) on the request and the tax parcel identification number(s) for the property subject to the request.
- (e) For the purposes of notice under this section, the names and addresses of owners of property shall be determined by the latest ad valorem tax rolls.
- (f) For Comprehensive Plan amendments, due public notice shall be provided in accordance with F.S. § 166.041 and F.S. § 163.3184.

(Ord. No. 01-99, § 1(114), 11-3-1999; Ord. No. 04-05, § 1, 2-2-2005; Ord. No. 05-09, § I, 5-6-2009; Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

Sec. 3.7. Owners' association.

No development order shall be issued for any development where there is any property within the development, which is not to be conveyed to an individual, to a condominium or cooperative, or to a government agency. Where property is to be conveyed to an owners' association, the following standards shall apply.

- (a) The organization or legal entity established for the purpose of owning and maintaining common land shall be created by covenants running with the land. The documents creating such an association shall be reviewed and approved by the City Attorney prior to issuance of the development order.
- (b) No such organization shall be dissolved nor shall it dispose of any common land or facilities by sale or otherwise except to an organization conceived and organized to own and maintain such common land or facilities. The organization may offer to dedicate all such land and facilities to the City. The City may make acceptance subject to improvements which will be made before the land or facilities are transferred. If the City agrees to accept the land and facilities, the organization may be disbanded, but not before the improvements are made and the property is transferred.

(Ord. No. 01-99, § 1(210), 11-3-1999)

Division 2. – APPLICATIONS

Sec. 3.8. Rezoning.

(a) *Procedure.*

- (1) Land may be rezoned at the initiative of the property owner or other person with beneficial interest in the land as agent of the property owner. Rezoning may also be initiated by the City Council.
- (2) Any request for rezoning shall be made on forms provided by the City Manager accompanied by a letter of authorization from the property owner (if applicable), and a survey and legal description of the property to be rezoned. The City Manager will review the request (or have it reviewed) and will make a recommendation to the City Council for action.
- (3) A community meeting hosted and arranged by the applicant is required after a final recommendation has been issued by the DRC and which must be made prior to the meeting and the application shall be presented in its final form for all rezoning applications including Planned Unit Developments (PUD). The community meeting shall afford citizens and other affected parties an opportunity to discuss the applicant's proposal and express concerns, issues or problems they may have with the proposal in advance of the public hearing. Following the community meeting, the applicant shall submit a report documenting the results of the meeting. Notification of the community meeting shall be in accordance with the following.
 - a. The community meeting shall be held at least ten (10) days prior to the first public hearing for the proposed ordinance.

- b. The level of citizen interest and area involvement will vary depending on the nature of the application and the project's location. The City will determine the target area for notification after consultation with the GMD and approval by the City Manager. But in no case shall the notification area for the community meeting be less than required by section 3.6, Notice requirements.
 - c. The applicant shall notify neighborhood and homeowner's associations within the public notice area.
 - d. The applicant shall provide a list to the City of all those notified by the applicant of the community meeting.
- (4) The City Council will review the request at two (2) public hearings as a quasi-judicial proceeding pursuant to City Resolution # 2015-21 and following public notice as required by F.S. 166.041 and by this Code, and will approve, deny, continue, or approve with modifications.
- (5) If a request for a variance, rezoning, or special exception is denied, no substantially similar request may be considered within 180 days, unless this restriction is waived by the City Council.
- (b) *Criteria for rezoning.* All applications for rezoning shall be reviewed in accordance with the following criteria:
- (1) The proposal shall be consistent with the Comprehensive Plan, including proposed uses and intensity or density of use.
 - (2) The establishment, maintenance, or operation of the uses permitted by the proposed rezoning shall not be detrimental to or endanger the public health, safety, or general welfare.
 - (3) The uses permitted by the proposed rezoning shall not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the respective zoning districts and shall be consistent with the character of the immediate neighborhood.
 - (4) The establishment, maintenance, or operation of the uses permitted by the proposed rezoning shall be supported by adequate infrastructure or provisions shall be made to ensure that infrastructure is adequate when needed to serve the development.
 - (5) The proposed amendment shall not qualify as spot zoning, as defined in this Code.
- (c) *City initiated rezoning.* The City may initiate rezoning of land as provided by F.S. § 166.041.
- (1) The community meeting shall be held at least ten (10) days prior to the first public hearing for the proposed ordinance.
 - (2) The City shall notify all property owner subject to the rezoning as required by Sec. 3.6.
 - (3) Due public notice shall be provided in accordance with F.S. 166.041.

(Ord. No. 01-99, § 1(105), 11-3-1999; Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. [04-15](#), § III, 12-2-2015)

Sec. 3.9. Rezoning to PUD.

- (a) *Preapplication stage.* A preapplication meeting is required before a PUD rezoning application can be accepted. After the preapplication meeting, a concept plan may be submitted for review and comment prior to filing the application for rezoning.
- (1) *Preapplication meeting.* The preapplication meeting is intended to provide an opportunity for an informational exchange between the applicant and the administrative staff. No fee shall be charged. The applicant need not submit any plans or other information; however, the more information, such as concept plans, proposed land uses, site information, adjacent land uses, and proposed density, that the applicant does submit, the more complete the responsive comment can be. As a minimum, the applicant will be advised of the usual procedures and requirements. Forms, application materials, guidelines, checklists, and copies of the Comprehensive Plan, and of the zoning and subdivision regulations, will be made available at a reasonable cost.

(2) *Concept plan.* After the preapplication meeting, a concept plan may be submitted to the GMD. If submitted, written comments on the concept plan shall be made by the GMD and any interested departments within 30 days. The GMD shall coordinate this review. If submitted, a concept plan shall indicate general land use categories and the approximate height, location, architectural character and density of dwellings, and other structures. The concept plan shall also show the tentative major street layout, approximate street widths, sites of schools, open space areas and parks, existing structures, waterways, wooded areas, wetlands, floodplain areas (if applicable), total acreage and existing zoning. Finally, it shall include a vicinity map, and any other information deemed appropriate by the applicant. Written comments on the concept plan are informational only and are subject to change after a more detailed review of the rezoning application.

(b) *RPUD application stage.* An application for rezoning to RPUD, together with a master development plan (MDP) and such application fees as are set at the preapplication meeting, shall be submitted to the City Manager or his/her designee. The master development plan shall consist of a preliminary plan and a written development agreement. Those documents shall include the following information:

(1) Preliminary plan exhibits. The preliminary plan shall consist of the following:

- a. Name of project and name, address, telephone number of the developer and the professional project engineers, architects and planners.
- b. The date the plan was drawn, its scale, and a north arrow.
- c. Names and location of adjoining streets and names of abutting property owners.
- d. Legal description of property, boundary survey and the location of all existing streets, buildings, railroads, bulkhead lines, easements, and other important features in or adjoining the property.
- e. The general topography and physical conditions of the site, including natural areas of vegetation and type, general soil types, wetland areas, 100-year floodplain areas, watercourses, water bodies, and natural drainage patterns.
- f. Conceptual configuration of proposed streets, which depict access into and traffic flow within the development, with particular reference to the separation of vehicular traffic from pedestrian or other types of traffic.
- g. General feasibility plans for potable water, sewage disposal, and stormwater drainage.
- h. Approximate location and area encompassed for each proposed land use within the development.
- i. Approximate location and size of common open space.
- j. Such additional material, maps, studies, or reports subsequently deemed necessary by any reviewing department or agency.

(2) *Written development agreement.* In addition to a preliminary plan, a written development agreement shall be prepared, following a general format supplied by the GMD at the preapplication meeting. The development agreement, along with the preliminary plan, shall govern the development of the PUD and shall regulate the future use of the land. The development agreement shall include the following:

- a. Evidence of unified ownership and control.
- b. Statement agreeing to:
- c. Proceed with the proposed development according to all regulations;
- d. Provide appropriate performance and maintenance guarantees;
- e. Follow all other provisions of this Code to the extent not expressly inconsistent with the written development agreement, and bind the applicant's successors in title to his or her commitments.

- f. The acreage and percentage of the total land area devoted to each of the proposed land uses.
 - g. Maximum density for each type of dwelling.
 - h. Maximum building heights.
 - i. Minimum building spacing and floor areas.
 - j. Lot sizes, yard areas and buffer areas, including perimeter buffers.
 - k. Statement regarding the disposition of sewage and stormwater, and arrangements for potable water.
 - l. When the PUD is planned for phase development, a schedule of the phases.
 - m. The proposed language of any covenants, easements or other restrictions.
 - n. Maximum number of dwelling units by type.
 - o. Any additional information or statements subsequently deemed necessary by any reviewing department or agency.
 - p. Conditions that all provisions of the development agreement shall expire 720 days following execution of the development agreement by the City, if a subsequent development order has not been secured in writing by the applicant. Upon expiration of the agreement the zoning designation will revert to its previous designation and the PUD entitlements become null and void.
- (c) *BPUD, IPUD or MPUD application stage.* An application for rezoning to BPUD, IPUD or MPUD, together with a master development plan (MDP) and such application fees as are set at the preapplication meeting, shall be submitted to the City Manager or his/her designee. The master development plan shall consist of a preliminary plan and a written development agreement. Those documents shall include the following information:
- (1) Preliminary plan exhibits. The preliminary plan shall be drawn to an appropriate engineer's scale to include the location and boundary of the site referenced by the legal description and boundary survey; the date the plan was drawn, its scale, and a north arrow; and the name, address and telephone number of the developer and his professional project engineers, architects and planners. In addition, the preliminary plan shall include all of the following, if applicable. The PUD establishes the zoning/permitted use of property; items (a), (f), (h), (j) below if not known or applicable at the time of the zoning request will be provided on the overall development plan or final site plan as appropriate.
 - a. The approximate size and location of all proposed buildings and other structures, if known, and the specified use of buildings and structures may be indicated, if known.
 - b. Generalized off-street parking area and loading plans, including circulation plans for vehicular movement.
 - c. Driveway and access controls, including number and approximate location of driveways.
 - d. Approximate location, size and description of open spaces, landscaped areas, or buffers.
 - e. Approximate location and size of all easements, rights-of-way, or drainage facilities and structures.
 - f. Approximate boundary lines and dimensions of parcels proposed to be subdivided, if applicable.
 - g. The general topography and physical conditions of the site, including features such as water bodies, wooded areas, wetland areas, vegetation types, soils, 100-year floodplain areas, and steep grades or depressions on the site.
 - h. General location of signs, if known.
 - i. Approximate location of dumpsters, solid waste receptacle enclosures, etc., if known.

- j. Any other conditions of development, specifications, limitations, constraints, standards or proposed physical features not specifically included in subparagraphs a. through j. of this paragraph.
- (2) *Written development agreement.* In addition to a preliminary plan, a written development agreement shall be prepared, following a general format supplied by the City Manager at the preapplication meeting. The development agreement, along with the preliminary plan, shall govern the development of the BPUD, MPUD or IPUD and shall regulate the future use of the land. The development agreement shall include the following information:
- a. Evidence of unified ownership and/or control.
 - b. Statement agreeing to:
 - c. Proceed with the proposed development according to all regulations;
 - d. Provide appropriate performance and maintenance guarantees;
 - e. Following all other provisions of this Code to the extent not expressly inconsistent with the written development agreement, and bind the applicant's successors in title to his commitments.
 - f. A listing of the land uses agreed upon in each component of the BPUD, MPUD or IPUD.
 - g. Maximum building heights.
 - h. Minimum building spacing and floor areas.
 - i. Lot sizes, if known, yard areas, and buffer areas, including perimeter buffers.
 - j. Statement regarding ingress/egress controls to the site.
 - k. Statement regarding any road improvements to be made and the thresholds for the traffic impact analysis.
 - l. Statement regarding the disposition of sewage and stormwater, and arrangements for potable water.
 - m. When the BPUD, MPUD or IPUD is planned for phased development, a schedule of the phases.
 - n. The proposed language of any covenants, easements or other restrictions.
 - o. Maximum amount of square footage by use.
 - p. Any additional information or statements subsequently deemed necessary by any reviewing department or agency.
 - q. Condition that all provisions of the development agreement shall expire 720 days following execution of the development agreement by the City, if a subsequent development order has not been secured in writing by the applicant. Upon expiration of the agreement the zoning designation will revert to its previous designation and the PUD entitlements become null and void.
- (d) Post-approval stage.
- (1) *Recording MDP.* After City Council approval of the rezoning application to PUD, the preliminary plan, and the written development agreement, both signed by the Mayor, and attested by the City Manager, shall be recorded in the public records of the County at the expense of the applicant.
 - (2) *Final site plan approval.* After the MDP is recorded, a final site plan shall be prepared and submitted in the manner required by this Code. If the PUD includes a subdivision required to comply with this Code, preliminary and final plats of the subdivision portion may be submitted in lieu of the final site plan, for review and approval as governed under this Code.

- (3) *Construction.* During construction, the City Manager shall enforce compliance with the approved final site plan or the final plat.
- (4) Legally existing PUDs. Residential Planned Unit Developments (RPUDs), Business Planned Unit Developments (BPUDs), and Industrial Planned Unit Developments (IPUDs) which were in existence prior to October 27, 1990, shall continue in the manner approved by the County Council. To the extent of any specific amendment to these aforesaid PUDs, said amendment must comply with the requirements of this Chapter. Terms previously used in said PUDs may continue to be employed.

Sec. 3.10. PUD Amendments.

- (a) After approval of a Planned Unit Development and its corresponding development agreement and master development plan, the city may issue development permits which are consistent with the approved Planned Unit Development until its expiration specified in the development agreement. The City Council may grant extensions to a Planned Unit Development and its corresponding development agreement and master development plan.
- (b) Subsequent to the approval of the planned unit development, the City Council may approve minor modifications of the Planned Unit Development as long as the modification requested is not contrary to the specific provisions of the PUD ordinance. Minor modifications are those for which:
 - (1) The proposed site alterations must not increase the building size more than ten percent of the gross floor area of all buildings within the development.
 - (2) The proposed site alteration must not adversely affect traffic circulation on- or off-site.
 - (3) The proposed site alterations must not have a significant impact upon the utility system.
 - (4) The proposed site alterations must comply with all codes, rules, and regulations of the city, county, state and federal governments, and must not require variances.
 - (5) The proposed modification must not increase the maximum density of development.
 - (6) The proposed modification does not change permitted uses or special exception uses.
- (c) Requests for modifications to a planned unit development which meet the standards of subsection (b) may be adopted by resolution of the City Council after one public hearing and notice as provided in accordance with Sec.3.6. After City Council approval of a minor amendment, the adopted resolution along with its corresponding revisions to the development agreement and master development plan shall be recorded in the public records of Volusia County, Florida, at the expense of the applicant.
- (d) Requests for modifications which do not meet the standards in subsection (b) shall be reviewed and processed in the manner provided for new planned unit development applications, as provided for in Sec. 3.8 and 3.9 of this Code.

Sec. 3.11. Variances.

The City Council may grant a variance from the strict application of a provision of this Code if the effect of the variance is in harmony with the general purpose and intent of the Comprehensive Plan and with these regulations and standards and where the City Council, pursuant to City Resolution # 2015-21, makes findings of fact, based on the standards hereinafter described, that there are practical difficulties or particular hardships in carrying out the strict letter of the regulation or regulations.

- (a) *Procedure.* Any person desiring to make improvements to property or to erect any structure not in conformance with the regulations or standards in this Code shall apply for a variance. Consideration of a request for a variance by the

City Council shall be a quasi-judicial action and shall be considered after due public notice. Public notice shall include newspaper advertising as required by state law and Section 3.6.

- (b) *Limitations on granting variances.* The City Council shall not vary the provisions of this Code unless it includes within the record of its action findings based upon the evidence presented to it in each specific case that all of the following conditions are met:
- (1) The particular physical surroundings, shape, topographical conditions, or other physical or environmental condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
 - (2) The conditions upon which the request for a variance is based are unique to the parcel and would not be applicable, generally, to other property within the vicinity.
 - (3) The plight of the landowner is due to unique circumstances and not the result of his or her own action or failure to act.
 - (4) The variance, if granted, will be the minimum variance necessary to accomplish the objectives and will not alter the essential character of the area.
 - (5) The purpose of the variance request is not based exclusively upon an economic hardship.
 - (6) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity.
 - (7) The proposed variance will be consistent with the provisions of the Comprehensive Plan and the purposes of this Code.
- (c) *Conditions.* In giving development order approval of a variance, the City Council may impose such conditions and restrictions as may be necessary to comply with the standards of this Code to reduce or minimize the injurious effects of such variance upon other property in the vicinity and so as to carry out the intent and purposes of this Code and the Comprehensive Plan. Such conditions shall conform to the limitations set out in this Code and shall be enforceable as are any other provisions of this Code.
- (d) *Expiration.* The activity permitted by a variance shall be commenced within the valid period of the issued development order.
- (e) *Administrative variances.* The City Manager shall have the power to grant approval of an application for an administrative variance. An administrative variance may only modify setbacks, buffer widths, yard dimensions, height or floor area when the variance requested is equal to or less than 10 percent of the required setback, buffer width, yard dimensions, height or floor area requirement. If the City Manager denies an application for an administrative variance, an appeal may be submitted to City Council in accordance with Sec. 3.13 of this Code.

(Ord. No. 01-99, § 1(107), 11-3-1999; Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

Sec. 3.12. Special exceptions.

Certain uses or development situations are "special exceptions." These uses or development situations are generally permitted in the zoning district indicated, but may involve consideration of special circumstances or factors to determine that they are appropriate to the specific location and property. These uses may also require additional conditions to be imposed to ensure compatibility with the surrounding area and consistency with the overall objectives of this Code and the Comprehensive Plan. Uses permitted by special exception shall be reviewed by the City Council pursuant to City Resolution # 2015-21

- (a) Procedure for review of special exception.
- (1) A request for approval of a special exception shall be filed with the City Manager or his or her designee. The request may be filed and processed in conjunction with any other request, such as a request for a change of zoning. The request shall be accompanied by a development plan for the project, unless it is determined by the City Manager that the nature of the request and the issues involved are not appropriate for development plan review.

- (2) In considering a request for a special exception, the City Council shall evaluate the criteria as they relate to the specific use requested and the specific location of the proposed special exception.
- (b) *Criteria for special exceptions.* All applications for special exceptions shall be reviewed and approved in accordance with the following criteria:
- (1) The proposal shall be consistent with the Comprehensive Plan.
 - (2) The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.
 - (3) The proposed use shall not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the respective zoning districts and shall be consistent with the character of the immediate neighborhood.
 - (4) Adequate measures shall be taken for ingress, egress and parking in a manner consistent with traffic operations and safety.
 - (5) The proposal shall not have a substantial adverse effect on any known archaeological, historical, or cultural resource located on or off the site.
 - (6) The proposed design shall minimize adverse effects of the use on adjacent property, including visual impacts.
 - (7) Adequate provision shall be made for buffers, landscaping, public open space, and other improvements necessitated by the proposal.
 - (8) The use shall meet the lot and building requirements of the zoning district in which it is located. A special exception shall meet any specific requirements identified in this Code and no variance shall be granted from these requirements.
 - (9) The use shall comply at all times with the approved development plan, and any conditions imposed for establishment and operation of the use.
- (c) *Imposition of conditions.* In approving a special exception, the City Council may impose such additional reasonable conditions for establishment and operation of the use, including but not limited to:
- (1) Hours of operation of the use.
 - (2) Restraints to minimize environmental effects such as noise, vibration, air pollution, glare, and odor.
 - (3) Special yard or other open space, lot area, or dimension requirements exceeding the requirements of the applicable zoning district.
 - (4) Height, size, or location limitations on buildings or other structures.
 - (5) Increase of the required amount of street dedication, roadway width, or improvements within the street right-of-way.
 - (6) Regulation of the size, location, screening, drainage, surfacing, or other improvement of a parking or truck loading area, and control of traffic generation or circulation.
 - (7) Regulation of the number, size, location, height, or lighting of signs.
 - (8) Regulation of the location, intensity, and shielding of outdoor lighting.
 - (9) Berming, screening, landscaping, or other measures to protect adjacent or nearby property, including standards for installation and maintenance.
 - (10) Regulation of the size, height, location, or materials for a fence or wall.

(11) Regulations to protect existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.

(12) Consideration of the size, style, history, and appearance of a structure to ensure architectural compatibility with other structures in the district except for single and two-family dwelling units.

(d) *Previously approved special exceptions.* It is the intent of this Code that any use or situation approved as a special exception prior to the effective date of this Code shall continue to be valid unless the use or situation is abandoned for more than 180 days based on utility records and/or occupancy or a change is requested. Any change shall be processed as a new request for a special exception under the provisions of this Code. The use or activity permitted under a special exception shall be commenced within the valid period of the issued development order.

(Ord. No. 01-99, § 1(108), 11-3-1999)

Sec. 3.13. Appeals

(a) Purpose of Planning and Zoning Appeals Requirements

(1) This Part is established to provide a procedure for the hearing and decision of appeals to certain determinations made under this Chapter by the City Manager or the GMD and their designees.

(b) Authorization

(1) An appeal may be brought by an applicant or owner of property or their designated agent subject to the action being appealed, the City Council acting as a body, and/or an aggrieved or adversely affected person.

(2) *Matters subject to appeal.* Any decision or interpretation of the provisions or requirements of this Code made by the City Manager or the GMD may be appealed. Such appeal shall describe the decision or interpretation being appealed and the nature of the proposed correct decision or interpretation. Where the City Manager or GMD has delegated or assigned a responsibility or duty to another employee or another party (including an assignment under a contract to provide administrative services), an appeal may be taken from an action of that other party to the City Manager and, subsequently, to the City Council under this section.

(3) An action by the City Manager or GMD approving, approving with conditions, or denying an application for a development order may be appealed. Such appeal shall state the basis for the appeal, including reference to specific provisions of the Comprehensive Plan, applicable laws, or this Code, with which the action is alleged to be inconsistent.

(c) Matters which may/may not be appealed. The validity of language of any section or provision of this Code may not be appealed—only the application of that language to a specific situation or circumstance. No requirement which is a requirement of or is directly based on and/or made directly pursuant to a requirement of the county, the state, or any federal or regional agency may be appealed. No provision or requirement of the Comprehensive Plan may be appealed; however, an interpretation of the meaning of a plan provision may be appealed to the extent that it affects a decision or action under this Code.

(d) The Appeal Review Process

(1) Initiation. An appeal may be brought by an applicant or owner of property subject to the action being appealed and/or an aggrieved or adversely affected person.

(2) Time Limit for Filing. The appeal shall be taken within ten (10) business days after rendering in writing of the order, requirement, decision, or determination appealed from by filing with the administrative official from whom the appeal is taken, a written notice of appeal specifying the grounds thereof. Where the provisions of this Code do not require a written statement or action as part of the decision process, and in order to establish a basis for appeal, the person making the appeal may request a written statement from the City Manager making a formal decision or interpretation as it applies to the property or situation involved in the appeal, in which case the appeal shall be filed within ten (10) business days after the issuance of such written statement.

(3) Stay of Work and Proceedings on Appeal. When an appeal has been filed with the administrative official, all proceedings and work on the premises concerning which the decision was made shall be stayed unless the

official from whom the appeal was taken shall certify to the reviewing authority that by reasons of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by a restraining order which may be granted by the reviewing authority, or by a court of record.

- (4) *Transmittal of the Record*. The administrative official from whom the appeal is taken shall transmit to the appropriate reviewing authority all papers, documents and maps constituting the record of the action from which the appeal is taken.
- (5) *Appeal of Authority's Decision (Administrative)*. Any action by the City Manager, GMD, or other administrative official in approving, approving with conditions, or denying an application for development approval may be appealed to City Council. Any action of the City Manager, GMD, or other administrative official in approving or denying an action prescribed by this Code or in taking or failing to take an action under the provisions of this Code may be appealed to City Council.
 - a. The appeal shall be considered by the City Council at a regular or special meeting within 60 days of the City Manager's receipt of a timely filed petition.
 - b. In considering an appeal, the City Council will conduct a public hearing with public notice. The Mayor or presiding officer may administer oaths and compel the attendance of witnesses. The City Council may reverse or affirm, wholly or partly, or modify any order, requirement, decision, or determination within its jurisdiction and may make such order, requirement, decision, or determination as ought to be made. Consideration of an appeal by the City Council shall be a quasi-judicial action.
 - c. Action to reverse or modify any order, requirement, decision, or determination under this Code, or to decide in favor of the applicant on any matter upon which it is required to act, or to effect any variation from these regulations, shall require the concurring vote of the majority of the entire Council.
- (6) *Appeal of Authority's Decision (Quasi-Judicial Hearing)*. Any action by the City Council in approving, approving with conditions, or denying an application for development approval may be appealed to court under the applicable provisions of state law. Any action of the City Council in approving or denying an action prescribed by this Code or in taking or failing to take an action under the provisions of this Code may be appealed to court under the applicable provisions of state law.

It is the intent of the City, however, that reasonable effort will be taken to resolve disputes through the dispute resolution processes established by state law and by the City's adopted Comprehensive Plan.

- (e) *Effect of decision on an appeal*.
 - (1) All decisions of the City Council are expressly conditioned upon the appellant or applicant obtaining the permit requested, or complying with such other order, and beginning construction within one year from the date of the decision. If compliance with all requirements has not been made and the permit has not been issued within one year, then the permit shall expire. Extensions may be granted by the City Council, provided that extensions shall not exceed one year.
 - (2) Upon denial of a request, an applicant may not apply for the same relief or relief of the same condition until 180 days after the date of final action.

Division 3. CONCURRENCY

Sec. 3.14. Concurrency management system.

- (a) *General provisions*.
 - (1) The purpose of the concurrency management system is to meet the legal requirement that no development be permitted unless the public facilities necessary to support the development are in place with adequate capacity to serve the development or will be in place when needed by the development.

(2) It is the intent of this Code that the provisions of this section will not be applied in such a way as to deprive the owner of property from the reasonable beneficial use thereof.

(b) Determination and offsetting of impact on public services and facilities of the City.

(1) *Procedure.* During the review of an application for a development order or development permit, a determination will be made by the City according to policies set out in the Comprehensive Plan and this Code as to the environmental, physical and fiscal impact of the development on the public services and facilities of the City as set forth in this section and the Comprehensive Plan and the measures necessary to offset said impacts.

a. The determination of impact will use the best available information and will be based upon the maximum impact of the proposed development as generated from the submitted application for a development order or development permit. The applicant is encouraged to provide any information in addition to required submittals that will assist in more accurately determining impact.

b. The measures necessary to offset the impact of the proposed development shall be as set out in this section.

(2) *Availability of the stormwater management system.* The proposed development shall be designed to provide for the construction and maintenance of a stormwater management system, which conforms to the standards of chapter 10, the Comprehensive Plan, and any other governmental agency having jurisdiction over the area.

(3) *Availability of the potable water system.* The availability and capacity of the potable water system shall be as provided in this Code and the Comprehensive Plan.

(4) *Availability of the sanitary sewer system.* The availability and capacity of the sanitary sewer system shall be as provided in this Code and the Comprehensive Plan.

(5) *School system sites in new residential development.* In order to provide for lands to be used to meet the need for school sites created by new residential development, a developer may dedicate land to the county school board of suitable size, dimension, soil type, topography and general character to meet the need for school sites created by the development or as required by the Comprehensive Plan or Volusia County Public Schools (VCPS).

(6) *Availability of solid waste facilities.* The availability and capacity of solid waste facilities shall be as provided in this Code and the Comprehensive Plan.

(7) *Traffic impact analysis methodology and requirements.* A traffic impact analysis (TIA), preceded by a written methodology statement for review and approval by the City Traffic Engineer, shall be provided with all development applications subject to concurrency review. Please also see the City's Mobility areas and requirements for applicability. The TIA shall follow the report requirements of the document entitled *Transportation Impact Analysis (TIA) Guidelines – For Development Applications Requiring a TIA Within the River to Sea TPO Metropolitan Planning Area, Dated June 22, 2016* as approved by the River to Sea Transportation Planning Organization (R2CTPO) as amended from time-to-time, and adopted here by reference as an administrative requirement.

a. *Thresholds for traffic impact analysis report.* A transportation impact analysis report shall be required, unless waived by the City Traffic Engineer, for any use which, according to the Institute of Transportation Engineers Trip Generation Manual, latest edition, rates published by the Florida Department of Transportation or rates documented by study and agreed to prior to use by the City Traffic Engineer, will generate the following:

1,000 or more two-way daily external trips on a weekday; or,

100 or more peak hour two-way external trips.

Developments generating less than 1,000 two-way daily external trips or 100 peak hour two-way external trips may also be required to submit a TIA if determined necessary by the Development Review Committee and/or the City Traffic Engineer.

b. The applicant submitting the TIA for City approval shall adhere to and be responsible for the provision of all notification requirements, and those associated costs, as specified within the adopted TIA and city development and level of service standards.

(8) *Recreation LOS.* The availability and capacity of parks and recreation system shall be as provided in this Code and the Comprehensive Plan.

(Ord. No. 01-99, § 1(209), 11-3-1999)

Sec. 3.15. Public school capacity.

(a) Adequate school capacity required for permit approval. The City shall coordinate with VCPS to determine if adequate school capacity exists and to determine if mitigative strategies are needed to accommodate an increase in residential density. In making such determination, the City is entitled to rely on VCPS's certification of adequate or inadequate capacity as competent, substantial evidence that the affected public school or schools can or cannot accommodate the additional students resulting from the increase in residential density. However, the following exceptions to this section apply:

- (1) This section shall not apply to a development permit or Comprehensive Plan amendment with a de minimis impact. Such a development permit, its functional equivalent, or Comprehensive Plan amendment shall be presumed not to create an adverse impact on any affected public school.
- (2) This section shall not apply to a development permit, Comprehensive Plan amendment, or administrative rezoning that does not increase actual residential density, but merely makes the zoning district or category representative of the preexisting development and preexisting residential density in the area.
- (3) The City may, with written approval of VCPS and the consent of the applicant, elect to defer consideration of school capacity from adoption of Comprehensive Plan amendment for a property until such time as the City considers a development permit for the property.
- (4) If no interlocal agreement is yet in place between the City and the school board as provided for in this section, or VCPS otherwise fails to provide the City with school capacity reports or other information, then the City may base its determination of the adequacy of school capacity on the best available information and data as procured from and provided by the school board, applicant, and/or other credible sources.

(b) *Interlocal agreement; minimum requirements.* The City shall negotiate with the school board to reach an interlocal agreement regarding school capacity, which shall include, at a minimum, the following:

- (1) All the elements of an interlocal agreement required by F.S. 163.3177(6)(h)1. and 2., 163.31777(2), and 163.3180(6).
- (2) The school board shall respond to the City's request for a school capacity report within an agreed-upon time period.
- (3) If the school capacity report indicates that there is insufficient capacity, and the applicant requesting the development permit or Comprehensive Plan amendment proposes a capacity enhancement agreement, the school board shall approve or deny the capacity enhancement agreement within an agreed-upon time period. Approval by the school board of a capacity enhancement agreement shall constitute its certification that sufficient school capacity will exist to handle the additional students generated by the proposed development permit or Comprehensive Plan amendment and that such capacity is based on an educationally sound plan.
- (4) The capacity enhancement agreement shall take into account the time at which school capacity will be available.
- (5) The school board shall use funds collected pursuant to a capacity enhancement agreement to provide school capacity to serve the students of the City.
- (6) A school board certification of insufficient school capacity when an applicant has made a capacity enhancement proposal shall require the school board to demonstrate that it has considered options to mitigate the impacts created by issuance of a development permit or approval of a Comprehensive Plan amendment.

- (7) That any provisions within the agreement for certification of school capacity will be superseded by any valid, future, countywide interlocal agreement for school concurrency which is also applicable within the City and adopted pursuant to general law, but only superseded to the extent of direct conflicts between the agreements.
- (c) *Multijurisdictional participation.* The county, along with the City and the school board, may be a party to the interlocal agreement regarding school capacity. Any other municipality within the county may request to be a party to the interlocal agreement regarding school capacity. To the extent that negotiations with individual cities are successful, they may be parties to the interlocal agreement regarding school capacity. To the extent that negotiations with individual municipalities, as well as the county, are unsuccessful, they will not be parties to the interlocal agreement regarding school capacity.
- (d) *Effect of failure to join; optional parties.* The failure of any other municipality or local government, including the county, to enter into the interlocal agreement regarding school capacity will not prevent the execution and implementation of the interlocal agreement regarding school capacity between the City and the school board.
- (e) *Effect of school board's failure to join or provide timely certification.* This section recognizes the autonomy of the county school board as a sovereign entity. The provisions of this section shall be effective immediately upon the City's adoption of the ordinance creating said section. In the event the county school board and the City do not approve the interlocal agreement referenced in subsection (c) of this section, or the county school board fails to timely provide the City with school capacity reports or other information contemplated by this section, the City shall make the determination on school capacity required by this section based on information the City deems sufficient.
- (f) *Effect of implementation of countywide school concurrency.* This section will be superseded by any valid, countywide, interlocal agreement for school concurrency adopted by this City as required by general law, but only to the extent that said school concurrency agreement conflicts with this section.
- (g) *Effect of maximum densities under the Comprehensive Plan.* The maximum density established by the Comprehensive Plan Future Land Use Map, or an amendment thereto does not absolve a development permit applicant from meeting this section. For the issuance of development permits, the City may require and approve less density than the maximum density established by the Comprehensive Plan Future Land Use Map on the basis of lack of public school capacity.

(Ord. No. 28-06, § I, 12-6-2006)

Sec. 3.16. Proportionate fair-share program.

- (a) *Purpose.* The purpose of this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair-share program, as required by and in a manner consistent with F.S. § 163.3180(5) and the Transportation Impact Analysis (TIA) Guidelines established by the River to Sea Transportation Planning Organization adopted on June 22, 2016, as amended.
- (b) *Applicability.* The proportionate fair-share program shall apply to any development project in the city where the project's traffic impact study or the city's traffic engineer determines that there is insufficient capacity on one or more roadway segments to satisfy the development project's transportation concurrency requirements including transportation facilities maintained by the Florida Department of Transportation (FDOT) or Volusia County that are relied upon for transportation concurrency determinations, except those developments subject to the Mobility Fee Area. The proportionate fair-share program does not apply to developments of regional impact (DRIs) using proportionate fair share under F.S. § 163.3180(5), or to developments exempted from concurrency under F.S. § 163.3180.
- (c) *General requirements.*
- (1) An applicant whose project meets the criteria of subsection (b) of this section may choose to satisfy transportation concurrency requirements by making a proportionate fair-share contribution, pursuant to the following requirements:
- a. The proposed development is consistent with the Comprehensive Plan, applicable land development regulations, and the adopted Long-Range Transportation Plan (LRTP) of the River to Sea Transportation Planning Organization, as amended.

- b. The five-year schedule of capital roadway improvements in the city's Capital Improvements Element (CIE) of the City's Comprehensive Plan includes one or more transportation improvements that, upon completion, will provide sufficient capacity for the deficient segments to accommodate the traffic generated by the proposed development.
- (2) The City may choose to allow an applicant to satisfy transportation concurrency for a deficient roadway segment as identified by the City through the proportionate fair-share program by the developer contributing to an improvement that, upon completion, will create additional capacity on the deficient segment sufficient to accommodate the additional traffic generated by the applicant's proposed development even if the improvement project for the deficient segment is not contained in the five-year schedule of capital improvements in the CIE where:
- a. The DeBary City Council holds an advertised public hearing to consider the proportionate share agreement and corresponding future changes to the five-year CIE;
 - b. The City adopts, by ordinance, an amendment adding the improvement to the five-year schedule of capital improvements in the CIE. To qualify for consideration under this section, the proposed improvement must be reviewed by the DeBary City Council, and determined to be consistent with the Comprehensive Plan, and in compliance with the provisions of this section.
 - c. Any improvement project proposed to meet a developer's fair-share obligation must meet design standards of the City and County for arterials and those of the Florida Department of Transportation (FDOT) for the state highway system.
- (d) Application process.
- (1) Upon identification of a lack of capacity to satisfy transportation concurrency, an applicant may choose to satisfy transportation concurrency through the proportionate fair-share program by entering into a proportionate fair-share agreement with the city.
 - (2) Prior to submitting a proportionate fair-share agreement, the applicant shall attend a preapplication meeting with city planning and traffic engineering staff to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. Volusia County and the Florida Department of Transportation (FDOT) will be notified and invited to participate in the pre-application meeting.
 - (3) Proportionate fair-share agreements shall include the following exhibits:
 - a. Name, address, and phone number of owner(s), developer and agent;
 - b. Property location, including parcel identification numbers;
 - c. Legal description and survey of property;
 - d. Project description, including type, intensity, and amount of development;
 - e. Phasing schedule, if applicable;
 - f. Description of requested proportionate fair-share mitigation method(s);
 - g. Copy of concurrency application;
 - h. Copy of the project's traffic impact statement (TIS) or traffic impact analysis (TIA); and
 - i. Location map depicting the site and affected road network.
 - (4) Within ten (10) business days, city planning staff shall review the application and certify that the application is sufficient and complete. If an application is determined to be insufficient, incomplete, or inconsistent with the general requirements of the proportionate fair-share program as indicated in subsection (c) of this section, then the applicant shall be notified in writing of the reasons for such deficiencies within ten business days of submittal

of the application. If the applicant does not remedy such deficiencies within 30 days of receipt of the written notification, then the application shall be deemed abandoned. The City Manager may, in his/her discretion, grant an extension of time not to exceed 60 days to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to affect a cure.

- (5) Pursuant to F.S. § 163.3180(5), proposed proportionate fair-share mitigation for development impacts to facilities on the strategic intermodal system (SIS) requires the concurrence of the FDOT. If an SIS facility is proposed for proportionate share mitigation, the applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.
 - (6) When an application is deemed sufficient, complete, and eligible, a proposed proportionate fair-share obligation and binding agreement will be prepared by the city, or the applicant with direction from the city, and delivered to the appropriate parties for review. Copies of the agreement shall be provided to FDOT and Volusia County for any fair-share mitigation related to their respective thoroughfare facilities.
 - (7) The city shall notify the applicant regarding the date of the DeBary City Council meeting at which the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the DeBary City Council.
- (e) Determining proportionate fair-share obligation.
- (1) Proportionate fair-share mitigation for concurrency impacts may include, separately or collectively, private funds, contributions of land, and construction and contribution of facilities as provided in F.S. § 163.3180(5).
 - (2) A development shall not be required to pay more than its proportionate fair share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ based on the form of mitigation as provided in F.S. § 163.3180(5).
 - (3) The methodology used to calculate an applicant's proportionate fair-share obligation shall be as provided for in F.S. § 163.3180(5)(h)2.a, as follows:
 - a. The number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.
- This methodology is expressed by the following formula:
- $$\text{Proportionate Fair Share} = |\text{Ms} [((\text{Development Trips}_i) \div (\text{SV Increase}_i)) \times \text{Cost}_i] \text{ (Note: In the context of the formula, the term "cumulative" does not include a previously approved stage or phase of a development.)}$$
- Where: |Ms = Sum of all deficient links proposed for proportionate fair-share mitigation for a project.
- Development Trips_i = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;
- SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment "i";
- Cost_i = Adjusted cost of the improvement to segment "i". Cost shall consist of all improvements and associated costs, including design, right-of-way acquisition, planning, engineering, inspection, and physical development costs, directly associated with construction at the anticipated cost in the year that construction will occur.
- (4) For purposes of determining proportionate fair-share obligations, the city shall determine improvement costs based upon the actual and/or anticipated costs of the improvement in the year that construction will occur. The City Development Engineer will determine these costs.

- (5) If the city has accepted an improvement project proposed by the applicant, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the City Development Engineer or other method approved by the City Manager.
 - (6) If the city has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the nonsite-related right-of-way shall be valued on the date of the dedication at 120 percent of the most recent assessed value by the Volusia County Property Appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the city and at no expense to the city. Said appraisal shall assume no approved development plan for the site. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the city at no expense to the city. If the estimated value of the right-of-way dedication proposed by the applicant (based on a city-approved appraisal) is less than the city estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. If the estimated value of the right-of-way dedication proposed by the applicant (based on a city-approved appraisal) is more than the city estimated total proportionate fair-share obligation for the development, then the city must pay the difference.
- (f) Proportionate fair-share agreements.
- (1) Upon executing a proportionate fair-share agreement (agreement) and satisfying other concurrency requirements, an applicant shall receive a certificate of concurrency (or its successor upon amendment of initial concurrency regulations). Should the applicant fail to apply for building permits or final plat within the timeframe provided for in the city's concurrency certificate, then the project's concurrency vesting shall expire, and the applicant shall be required to reapply. Once a proportionate share payment for a project is made and other impact fees for the project are paid, no refunds shall be given. All payments, however, shall run with the land.
 - (2) Payment of private funds, contributions of land, and construction and contribution of facilities as provided in F.S. § 163.3180(5) of proportionate fair-share requirements for a project and shall be due and must be paid or completed prior to the issuance of a building permit or recording of a final plat. If payment is submitted more than 12 months from the date of issuance of the certificate of concurrency, then the proportionate fair-share mitigation shall be recalculated at the time of payment and shall be subject to approval of the City Development Engineer.
 - (3) All developer improvements accepted as proportionate fair share contributions must be completed within three years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement and be accompanied by a performance bond that is sufficient to ensure the completion of all required improvements. It is the intent of this section that any required improvements be completed within three years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement.
 - (4) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must occur prior to the issuance of a building permit or approval of a final plat.
 - (5) Any requested change to a development project subsequent to issuance of a development order shall be subject to additional proportionate fair-share contributions to the extent the change would increase project costs or generate additional traffic that would require mitigation.
 - (6) Applicants may withdraw from a proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the city are nonrefundable.
 - (7) The city may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.
- (g) Appropriation of fair-share revenues.
- (1) Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the city's Capital Improvements Element, or as otherwise established in the terms of the proportionate fair-share agreement. Proportionate fair-share revenues may also be used as the 50-percent local match for funding under the FDOT Transportation Regional Incentive Program (TRIP).

- (2) In the event a scheduled facility improvement is removed from the CIE, then the proportionate fair-share revenues collected for its construction may be applied toward the construction of alternative improvements within that same corridor or sector where the alternative improvement will mitigate the impacts of the development project on the congested roadway(s) for which the original proportionate fair share contribution was made.

(Ord. No. 27-06, § I, 12-6-2006)

Division 4. DEVELOPMENT ORDERS, PLATTING & SITE PLANS

Sec. 3.17. Development orders, development permits, approval authority, installation of improvements, public services and facilities agreements, and appeals.

- (a) *Purpose.* The purpose of this section is to:
 - (1) Provide for the applicability, approval and issuance of development orders and development permits to ensure that all of the provisions of this Code are complied with, to ensure the installation of required improvements;
 - (2) Provide for public services, road maintenance agreements and facilities agreements; and
 - (3) Provide an appeal process.
- (b) *Applicability.* No person shall undertake the development of land in the City except pursuant to a valid development order or development permit issued under this Code unless specifically exempted as provided by this Code. All development shall meet the requirements of this Code prior to the approval and issuance of any development order or development permit, unless specifically exempted from the requirements of this Code by provisions set forth herein, or one or more such requirements are waived in accordance with provisions set forth herein.
- (c) *Approving authority.* The Development Review Committee shall make a recommendation to City Council for approval, approval with conditions or denial of all applications for which the City Council makes a final decision. The Development Review Committee shall have authority to approve, approve with conditions or deny a development order for final site plan, overall development plan, and preliminary plat and construction plan meeting the definition of this code except as otherwise provided herein. All development order approvals and approvals with conditions for final site plans, overall development plans, and preliminary plats and construction plans by the Development Review Committee must have a final signature of approval by the City Manager or the GMD before such are deemed issued. Final site plans, overall development plans, and preliminary plat and construction plans shall not require City Council approval if a development order on such is issued after approval or approval with conditions by the Development Review Committee unless an appeal of a Development Review Committee decision is brought in accordance with the appeal provisions in this Code. The Development Review Committee, on their own motion and for cause, may continue consideration of an application to a subsequent meeting.
- (d) *Issuance of development orders and development permits.* A development order, upon issuance, shall authorize continuation to the next step in a development review process. A development order, upon issuance, shall authorize issuance of appropriate development permits. A development permit, upon issuance, shall authorize commencement of construction of the work covered by the scope of the permit. No development or construction shall commence unless a valid development order or development permit has been issued as provided by this Code. All development or construction commenced pursuant to a valid development order or development permit shall be completed in a manner which is consistent with the approved development order or development permit.
- (e) *Installation of improvements.* All improvements required to be installed, constructed or provided by the developer as a condition to the approval of a development order shall be installed and completed or guaranteed as specified in section 3.33.
- (f) *Public services, road maintenance agreements and facilities agreements.* In order to further the purposes of this Code regarding the provision of public services, road maintenance and facilities to a proposed development, the City shall enter into an agreement with the developer of the proposed development which will provide a means to:
 - (1) Ensure the certainty of providing public services and facilities for the proposed project;
 - (2) Ensure the provision of public services and facilities to other developments in the vicinity of the proposed development;

- (3) Allocate the costs of providing public services and facilities;
- (4) Allocate the capacities of the public services and facilities;
- (5) Determine the responsibilities for construction and maintenance of the public services and facilities.
- (6) Provide a road maintenance agreement for all new development projects. The agreement shall be provided at the Preliminary Plat and Construction Plan and Final Site Plan process. The agreement shall be approved by the City Council when the development order is approved.

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. [03-16](#), Exh. A, 1-20-2016)

Sec. 3.18. Application review requirements.

An application for a development order shall be reviewed by the Development Review Committee in accordance with 3.4. No application for a development order shall be approved which does not comply with the following:

- (a) The City Comprehensive Plan;
- (b) The City Land Development Code.

Sec. 3.19. Criteria for review of a development plan.

In order to meet the purpose of development plan review and the provisions of this Code, the following factors will be considered by the City Council in the review and approval of a development plan:

- (a) Plans must meet all Land Development Code requirements. Any variances or waivers necessary must be identified and approved prior to or in conjunction with the approval of the development plan.
- (b) The relationship the proposed development would have to adjacent properties, the impact the development would have on the immediate neighborhood, and the compatibility of the proposed development with the City's adopted Comprehensive Plan, including any development standards contained therein.
- (c) Ingress and egress to the site, compatibility with road improvement plans, vehicular and pedestrian safety, traffic flow and traffic control on public streets, maneuverability of vehicles, conflict points, provisions for service drives, adequacy of parking and loading areas (including number of parking spaces), servicing of utility areas by vehicles, access by emergency vehicles, and cross visibility.
- (d) The method of storm drainage on the property and the effect of proposed site alterations on drainage of adjacent properties, public drainage systems, the retention of stormwater, drainage to landscaped areas, the water table, flood hazard areas, and protection of water bodies from pollution.
- (e) Preservation of exceptional tree specimens and as many healthy trees as possible, the location and quality of landscaped and open areas, and the preservation or installation of buffer and screening areas.
- (f) Siting of and efforts to provide open spaces as well as recreational facilities for residents of the development where appropriate.
- (g) Utility tie-in locations, existing water and sewer facilities, offsite utility improvements, impact on water and sewer treatment capacities, supply capabilities, and pressure, and the necessity for and location of fire hydrants on- or off-site.
- (h) Internal circulation and parking with reference to pedestrian and vehicular safety, maneuverability of vehicles, prevention of points of vehicular conflict, wheel chair ramps, marking of drives and parking bays, cross visibility, drop-

off points, adequacy of parking count, parking spaces for the handicapped, and accessibility of firefighting equipment and personnel, applying the infrastructure, public improvement, and utility requirements of this Code.

- (i) General site arrangement, amenities, and convenience with particular reference to insuring that appearance and general layout of the proposed development will be compatible and harmonious with properties in the general area and will not be so at variance with other development so as to cause substantial depreciation of property values.
- (j) The use and development depicted in the development plan shall meet all City minimum environmental standards as set forth in this Code.
- (k) Other standards appropriate to the use and scale of the development proposed.

(Ord. No. 01-99, § 1(203), 11-3-1999)

Sec. 3.20. Platting.

It is the intent of this Code that the subdivision plat review process and platting process shall meet the requirements of F.S. 177, Part 1.

- (1) *Applicability.* These provisions shall apply to the review of any plat of subdivisions of any land within the City, which plat is to be recorded in the public records of the County. Submission, review, and approval of a plat shall be required for the division of any lot or parcel of land. Previously recorded and unrecorded subdivisions are hereby approved except as determined not exempt or vested by the procedures set forth in these regulations. Approval for the realignment or change of any lot or boundary shall be as set forth by these regulations.
- (2) *Submittal requirements.* Submittal and review of preliminary and final subdivision plats shall be as provided in this Code.
- (3) *Procedure.* Prior to recording of any final subdivision plat, such plat shall be submitted to the City Council for approval. The plat shall be reviewed and approved by the Development Review Committee as meeting all applicable requirements of this Code and other regulations. The Mayor shall then sign the plat to indicate that it has been approved.

(Ord. No. 01-99, § 1(206), 11-3-1999)

Sec. 3.21. Availability of pedestrian and bicycle circulation facilities.

There is hereby established a City sidewalk improvement trust fund. Money deposited in this fund shall be used for the purpose of constructing pedestrian and bicycle facilities in areas determined by the City to be needed for the safety and convenience of the pedestrians and bicyclists of the City.

- (a) The DRC or City Council, in their consideration of a development application, may approve the payment of money into the trust fund in lieu of construction of the sidewalks required by Chapter 7.
- (b) The amount of money to be paid in lieu of construction shall be determined by the City Engineer by establishing the average cost of constructing such facilities. The City Engineer shall review such cost annually and certify such cost to the GMD prior to October 1 of each year. Such cost shall be utilized by the GMD to make a determination of the amount of money owed by the developer as payment into the trust fund. The City Manager may approve a different amount of money to be paid into the trust fund by the developer based upon the actual cost of constructing the facilities in the development as evidenced by a construction bid, submitted by the developer and verified by the City Engineer for that purpose.
- (c) The total amount of money owed shall be paid to the GMD prior to or concurrent with issuance of a building permit for a site development or prior to recording the final plat for a subdivision development. The City shall keep a record of all money paid into the trust fund and shall, upon payment, deposit the money into the appropriate sub fund. Payment of all the money owed by the developer shall constitute full payment of the money necessary for the City to construct the required facilities at the location of the development at a future time deemed appropriate by the City Council.

Sec. 3.22. Conceptual site plan review.

- (a) Filing.

(1) All applicants for an FSP may first submit a conceptual site plan application (CPS) to the GMD.

(2) The GMD shall, within three working days of acceptance of the application, review the application for conformity with this Code and other development regulations and notify the applicant in writing of the results of the review. Thereafter, the applicant may submit an application for an FSP.

(b) *Procedures.* An application for a CPS may be filed and processed pursuant to Sec. 3.4 and 3.18

(c) *Required submittals.* A CPS application shall include the following:

(1) Conceptual site plan application.

- a. Statement of ownership of the proposed development, and the names, addresses and telephone numbers of the developer and any project engineers, architects or planners;
- b. Legal description;
- c. Current zoning classification;
- d. Schematic representation of proposed use, including building size, shape and location on the site;
- e. Schematic representation of vehicular circulation within the site, including driveways, parking areas and loading areas;
- f. Schematic representation of points of connection to the public rights-of-way;
- g. Location of landscaping;
- h. Location of floodplains and wetlands;
- i. Location of signage, if applicable; and
- j. Data on density/intensity.
- k. Number of dwelling units for multi-family residential projects.

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

Sec. 3.23. Final site plan review.

(a) *Approval required.* Unless otherwise stated in this Code, granting of a final site plan (FSP) development order is required prior to the issuance of any development permit allowing the commencement of site construction of commercial, industrial, or multi-family development in the City.

(b) *Procedures.* An application for an FSP shall be filed and processed pursuant to sections 3.4 and 3.18. *Exempt development.* The following activities shall not require compliance with this division, but may be subject to other divisions of this article:

- (1) Construction of a single-family home and customary accessory structures on an existing single-family zoned lot.
- (2) Construction of a single duplex or triplex and customary accessory uses on an existing duplex zoned lot.
- (3) The installation of those improvements which are required to develop a subdivision and for which development permits have been issued pursuant to Division 5 of this Chapter.
- (4) Agricultural production practices, which include fencing, drainage, irrigation and other agricultural uses and structures, including portable structures which do not conflict with existing City ordinances.
- (5) Minor site plans pursuant to Sec. 3.24
- (6) Minor or de minimis projects as determined by the GMD.

- (c) *On- and off-site development.* The provisions of this division shall be applied to all development which is the subject of an FSP, whether that development is on or off the subject site.
- (d) *Final site plan application.* An FSP application for final site plans may be submitted pursuant to sections 3.4 and 3.18 and shall include the following information and exhibits drawn to a scale deemed appropriate by the City Engineer:
 - (1) Statement of ownership of the parcel, and the names, addresses and telephone numbers of the developer and any project engineers, architects or planners;
 - (2) Legal description;
 - (3) Current zoning classification;
 - (4) Vicinity map at a scale of one inch equals 2,000 feet with sufficient information to locate the property in the field;
 - (5) A survey of the subject property, prepared by a registered surveyor, showing the boundaries of the project, and any existing streets, buildings, watercourses, easements and section lines. The survey shall be no older than two years;
 - (6) Floodprone areas;
 - (7) Water bodies or courses;
 - (8) Swamp or wetland areas;
 - (9) Tree survey, including a table depicting existing trees, tree retention, and applicable mitigation.
 - (10) A plan, signed and sealed by a state registered professional engineer, containing the title of the project, its date, scale and a north arrow, and illustrating the location of all proposed buildings and structures, access and traffic flow, off-street parking and off-street loading areas, recreational facilities, landscaped and buffer areas, refuse collection areas, proposed utilities, and existing and proposed topography at one-foot contour intervals;
 - (11) Total acreage, project density/intensity, and the percentages of total acreage for each permitted use, for building coverage and for impervious surface coverage;
 - (12) Architectural plans when required by other provisions of this Code.
 - (13) Number of dwelling units for multi-family residential projects.
 - (14) Statement of the proposed number of off-street parking and loading spaces and how that number was calculated;
 - (15) Statement of the proposed arrangements for the maintenance of common open space areas and facilities;
 - (16) Location and height of all structures and total floor area with dimensions to lot lines, and designation of use;
 - (17) Building separations;
 - (18) Vehicular circulation system for bicycles, cars and other required vehicle types, with indication of connection to adjacent streets;
 - (19) All adjacent rights-of-way, with indication of centerline and width, paving width, existing median cuts, driveways and intersections, street light poles and power company facilities;
 - (20) Pedestrian circulation system;
 - (21) Provider of water and sewerage facilities;
 - (22) Existing and proposed fire hydrant locations and water main sizes;
 - (23) Direction of drainage flows and nature of retention facilities;
 - (24) Indication of existing native vegetation that will be preserved;

- (25) Identify known wildlife corridors for federal and state endangered species, threatened species or species of special concern;
- (26) Identify known plants and animals which inhabit the site that are listed as federal and state endangered species, threatened species or species of special concern;
- (27) Identify known historic and archaeological sites;
- (28) Location of solid waste disposal system and provisions for accessibility to refuse collection and recycling trucks;
- (29) Off-street parking, loading, bicycle parking and mass transit loading (bus stop) areas and provisions for accessibility to vehicles of the required type;
- (30) Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles of the required type;
- (31) Design of all paved areas, including dimensions, radii and elevations, as well as plans for traffic control signs and pavement markings;
- (32) Location of all drainage features, and retention areas; lowest floor elevation of proposed buildings;
- (33) Plans and specifications required pursuant to all other applicable provisions of this Code;
- (34) Computation of pervious and impervious area, in square footage and percentage;
- (35) Building floor areas, elevations, sizes, types and typical floor plans;
- (36) Plans for signs, which at a minimum shall include location, size and setbacks;
- (37) A landscaping plan signed and sealed by a landscape architect meeting the requirements of this Code;
- (38) Location and plans for any outside storage areas;
- (39) Any additional information deemed necessary by any reviewing department or agency, or deemed appropriate by the developer;
- (40) If the FSP was prepared on a geographic information system or CAD system, the applicant shall provide electronic copies to the GMD;
- (41) Solid waste container and enclosure. Trash storage facilities in all commercial and industrial districts shall be screened by the owner so as to completely conceal such facilities from the view of persons in adjacent public rights-of-way normally reserved for vehicular traffic. This screening shall conform generally to the aesthetics and architectural characteristics of the adjoining principal structure or structures, and the use of natural materials and landscaping is encouraged. A dumpster pad detail and location plan shall be submitted to the zoning department for approval and permitting before any dumpster is located within the City limits. The specifications shall be as follows: A concrete pad shall be required, 12 feet wide and 16 feet long, with a six-foot high screened enclosure with a lockable gate. Said gate and screen are to be located outside of and not on the pad. The angle of the pad with the driving lane shall allow for a straight line maneuvering distance of 55 feet. A final inspection shall be required to ensure proper installation of the dumpster; and
- (42) Any other exhibits as may be required by a City reviewing agency.

One or more of the above items of information may be waived by the GMD at the time of application if deemed unnecessary in a particular case. The waived item may still be subsequently required by any reviewing department or agency if they deem it necessary.

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

Sec. 3.24. Minor final site plan review

- (a) *Approval required.* A minor site plan development permit is required prior to the commencement of site construction of a minor site improvement as defined in this Code.
- (b) *Exemption from requirement for development order.* An application for a minor FSP is exempt from the requirement for a final site plan development order and shall be issued a development permit consistent with the requirements of this Code and the City's Code of Ordinances.
- (c) *Minor final site plan application.* An application for a minor FSP may be submitted pursuant to the City's procedures for the issuance of development permits and shall include the following information and exhibits drawn to a scale deemed appropriate by the City Engineer, as deemed applicable to the project:
 - (1) Statement of ownership of the parcel, and the names, addresses and telephone numbers of the developer and any project engineers, architects or planners;
 - (2) Legal description;
 - (3) Current zoning classification;
 - (4) Vicinity map at a scale of one inch equals 2,000 feet with sufficient information to locate the property in the field;
 - (5) A survey of the subject property, prepared by a registered surveyor, showing the boundaries of the project, and any existing streets, buildings, watercourses, easements and section lines. The survey shall be no older than two years;
 - (6) Floodprone areas;
 - (7) Water bodies or courses;
 - (8) Swamp or wetland areas;
 - (9) Tree survey, including a table depicting existing trees, tree retention, and applicable mitigation.
 - (10) A plan, signed and sealed by a state registered professional engineer, containing the title of the project, its date, scale and a north arrow, and illustrating the location of all proposed improvements;
 - (11) Total acreage, project density/intensity, and the percentages of total acreage for each permitted use, for building coverage and for impervious surface coverage;
 - (12) Architectural plans when required by other provisions of this Code.
 - (13) Number of dwelling units for multi-family residential projects.
 - (14) Statement of the proposed number of off-street parking and loading spaces and how that number was calculated;
 - (15) Statement of the proposed arrangements for the maintenance of common open space areas and facilities;
 - (16) Location and height of all structures and total floor area with dimensions to lot lines, and designation of use;
 - (17) Building separations;
 - (18) Vehicular circulation system for bicycles, cars and other required vehicle types, with indication of connection to adjacent streets;
 - (19) All adjacent rights-of-way, with indication of centerline and width, paving width, existing median cuts, driveways and intersections, street light poles and power company facilities;
 - (20) Pedestrian circulation system;
 - (21) Provider of water and sewerage facilities;

- (22) Existing and proposed fire hydrant locations and water main sizes;
- (23) Direction of drainage flows and nature of retention facilities;
- (24) Indication of existing native vegetation that will be preserved;
- (25) Identify known wildlife corridors for federal and state endangered species, threatened species or species of special concern;
- (26) Identify known plants and animals which inhabit the site that are listed as federal and state endangered species, threatened species or species of special concern;
- (27) Identify known historic and archaeological sites;
- (28) Location of solid waste disposal system and provisions for accessibility to refuse collection and recycling trucks;
- (29) Off-street parking, loading, bicycle parking and mass transit loading (bus stop) areas and provisions for accessibility to vehicles of the required type;
- (30) Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles of the required type;
- (31) Design of all paved areas, including dimensions, radii and elevations, as well as plans for traffic control signs and pavement markings;
- (32) Location of all drainage features, and retention areas; lowest floor elevation of proposed buildings;
- (33) Plans and specifications required pursuant to all other applicable provisions of this Code;
- (34) Computation of pervious and impervious area, in square footage and percentage;
- (35) Building floor areas, elevations, sizes, types and typical floor plans;
- (36) Plans for signs, which at a minimum shall include location, size and setbacks;
- (37) A landscaping plan signed and sealed by a landscape architect meeting the requirements of this Code;
- (38) Location and plans for any outside storage areas;
- (39) Any additional information deemed necessary by any reviewing department or agency, or deemed appropriate by the developer;
- (40) If the FSP was prepared on a geographic information system or CAD system, the applicant shall provide electronic copies to the GMD;
- (41) Solid waste container and enclosure. Trash storage facilities in all commercial and industrial districts shall be screened by the owner so as to completely conceal such facilities from the view of persons in adjacent public rights-of-way normally reserved for vehicular traffic. This screening shall conform generally to the aesthetics and architectural characteristics of the adjoining principal structure or structures, and the use of natural materials and landscaping is encouraged. A dumpster pad detail and location plan shall be submitted to the zoning department for approval and permitting before any dumpster is located within the City limits. The specifications shall be as follows: A concrete pad shall be required, 12 feet wide and 16 feet long, with a six-foot high screened enclosure with a lockable gate. Said gate and screen are to be located outside of and not on the pad. The angle of the pad with the driving lane shall allow for a straight line maneuvering distance of 55 feet. A final inspection shall be required to ensure proper installation of the dumpster.
- (42) Any other exhibits as may be required by a City reviewing agency.

One or more of the above items of information may be waived by the GMD at the time of application if deemed unnecessary in a particular case. The waived item may still be subsequently required by any reviewing department or agency if they deem it necessary.

Sec. 3.25. Conformity to recorded plat and zoning regulations.

- (a) *Conformity to recorded plat.* If a FSP includes land previously platted, it shall conform to such plat.
- (b) *Conformity to zoning regulations.* Development depicted in a FSP shall conform to all applicable zoning regulations.
- (c) *Conformity to Comprehensive Plan.* Development depicted in a FSP shall conform to all provisions of the City's Comprehensive Plan.

Division 5. SUBDIVISION REGULATIONS

Sec. 3.26. Purpose.

- (a) *Generally.* The purpose of this division is to establish procedures for the subdivision of land in the City.
- (b) *Prohibitions on transfer of lots and issuance of development orders and development permits for lots not in compliance with this Code.* It shall be a violation of this Code for anyone who is the owner, or agent of the owner, of any land to transfer, sell, agree to sell, or negotiate to sell such land by reference to, exhibition of, or other use of a plat of a subdivision of such land without having the plat approved as required by this Code. In addition, no development order or development permit shall be issued on any lot unless that lot is in compliance with this Code.
- (c) *Exemptions.*
 - (1) Acquisition for public use.
 - (2) Condominiums.

Sec. 3.27. Lot splits; lot line adjustments; lot combinations.

- (a) The City Manager or his/her designee, may waive the requirement for preliminary plat and final subdivision plat approval when a lot split, lot adjustment or lot combination results in the creation of one or two lots either from the division of one existing lot, the combination of two more lots, or by the adjustment of two existing adjacent lots and the following conditions are satisfied:
 - (1) Each parcel meets the zoning standards of the property's zoning classification without the necessity of a variance.
 - (2) Parcels have frontage on a road right-of-way.
 - (3) The addition of impervious area will not impact the stormwater system of the area.
 - (4) Where property abuts an existing standard street and no new improvements for water, sewer or drainage improvements are required.
 - (5) Legal access to and from the lots and a public right-of-way is provided.
 - (6) Easements and access for public services and utilities are provided, if necessary.
 - (7) Executed joinder and consent to the proposed lot split or adjustment from all owners of the property and mortgage holders, if applicable.
 - (8) Any lots created shall be buildable.
 - (9) No lots shall be created pursuant to this section that would result in new necessary public facilities and infrastructure
- (b) *Procedures.* An application shall be filed and processed on a form provided by the City;
- (c) *Required submittals.* The completed application shall include the following information and exhibits:
 - (1) A completed application with all required contracts and notarized forms completed;
 - (2) Verification of ownership of the parcel(s), such as a warranty deed;
 - (3) Survey(s) of each existing lot and a separate survey for each proposed lot. The surveys shall be no older than two years, prepared by a registered surveyor, and shall provide the following information;

- a. Legal description of the property(s);
 - b. North point;
 - c. Existing lot dimensions;
 - d. Existing easements;
 - e. Names and dimensions of all streets within or abutting the property, and whether the streets are dedicated County, Cite, or private roads, and whether they are unopened, paved, or unpaved;
 - f. Flood plains;
 - g. Wetlands;
 - h. Existing septic tanks;
 - i. Existing wellfields;
 - j. Ingress and egress; and
 - k. Any other information required by the State Statutes, as amended.
- (d) *Recordation*. If the application is approved by the City, the applicant must have the approved application reviewed by the Volusia County Property Appraiser's Office and recorded, as required by Volusia County regulations.
- (Ord. No. 02-12, § 2(Exh. A), 9-5-2012; Ord. No. [03-16](#), Exh. A, 1-20-2016)

Sec. 3.28. Concept subdivision plan review.

The intent of this review is to give the developer an opportunity to introduce a proposed subdivision to the Development Review Committee for the purpose of familiarizing the developer with a broad range of Development Review Committee considerations prior to the preparation of detailed plan documents. These considerations include, but are not limited to, such items as the Comprehensive Plan, City development policies and regulations, other development in the vicinity of the proposed subdivision, soil types, area drainage patterns, floodplain and floodprone areas, and the capability of the land to support the proposed development. One specific purpose of this procedure is to provide the applicant with staff comments concerning floodprone areas in the proposed subdivision and to provide staff recommendations concerning those floodprone areas and the level of development considered to be acceptable by the City Council.

- (a) Procedures.
- (1) An application for concept plan review may be filed and processed pursuant to section 3.4, except subsection (f) of that section.
 - (2) A developer may elect to omit the concept plan review and proceed directly to the overall development plan review at section 3.29. If the concept plan review is omitted, the Development Review Committee shall consider the extent to which the flood-prone area shall be developed at the overall development plan review stage.
- (b) *Required submittals*. A concept plan shall be drawn at a scale no smaller than deemed appropriate by the City Engineer and shall illustrate clearly:
- (1) Total acreage.
 - (2) Floodprone areas (if applicable).
 - (3) Water bodies or courses.
 - (4) Wetland areas as defined herein.
 - (5) Parcel number according to the County property appraiser.
 - (6) Tentative layout of street system, lot patterns, and approximate subdivision boundaries.

- (7) Areas that may be reserved for parks or recreation sites, conservation easements, or natural open space areas.
- (8) Streets adjacent to the tract, including rights-of-way and driveways.
- (9) Current zoning and existing uses of subject property and of adjacent and surrounding properties.
- (10) All existing on-site or adjacent easements, including drainage, electricity, gas, water, wastewater, or other pipeline or utility easements.
- (11) Boundary survey with 5-foot interval contours and legal description.

(c) *Development Review Committee review.* The Development Review Committee shall review the application and informally discuss with the applicant any steps necessary to bring the application into compliance with the requirements of this Code. Thereafter, the applicant may submit an overall development plan application pursuant to section 3.29.

Sec. 3.29. Overall development plan review.

- (a) *Procedures.* After a concept plan review has been completed or omitted pursuant to section 3.28, an overall development plan application shall be filed, processed and reviewed pursuant to sections 3.4 and 3.18. The application and exhibits shall be consistent with the recommendations developed by the Development Review Committee during the concept plan review, if applicable.
- (b) *Required submittals.* The application shall include the following supporting information:
 - (1) General information:
 - a. Name of subdivision; name, address, telephone number of the subdivider, subdivision designer, professional engineer and registered surveyor;
 - b. A signed and sealed survey depicting the proposed lots, adjacent rights-of-way, 5-foot interval contours, legal description, all on-site and adjacent off-site improvements (i.e., structures, sidewalks, streetlights, fire hydrants, etc.);
 - c. Total acreage in tract, acreage in public or other land usage, total number of lots, linear feet in streets;
 - d. Names and location of adjoining subdivisions and streets;
 - e. Other supplemental materials or any deed restrictions or protective covenants for the subdivision and any other information considered by either the applicant or the Development Review Committee to be pertinent to the review of the overall development plan.
 - f. Parcel ID
 - (2) Existing site data.
 - a. Property lines, rights-of-way, pavement widths, easements, streets, driveways, railroads, utility transmission lines, storm sewers, ditches and culverts, sanitary sewers, water mains, bridges, buildings, bulkhead and bulkhead lines, and adjacent rights-of-way;
 - b. Wooded, wetland, and 100-year floodplain areas, marshes, watercourses, ponds, and other similar conditions affecting the site;
 - c. Topography of the site at not more than two-foot vertical contour intervals based on mean sea level data furnished by a professional engineer or surveyor;
 - (3) Proposed site data.
 - a. Street rights-of-way and pavement widths;
 - b. Other rights-of-way or easements;

- c. Schematic plans of all underground utilities, including but not limited to sanitary sewers, storm sewers, water lines or electric lines if located underground; schematic details indicating proximity and/or connections to existing systems or proposals for development of new systems;
- d. Proposals for dikes or any created water bodies or changed watercourses;
- e. Locations of bulkheads and bridges, if any;
- f. Typical lot dimensions;
- g. Parks, school sites, conservation areas, open spaces, and other public uses, if any;
- h. Designation of areas to be used for purposes other than residential and public, if any;
- i. Approximate spot elevations sufficient to indicate proposed grading of the streets and landscapes; and
- j. Plans and information required pursuant to all other applicable provisions of this Code.

Sec. 3.30. Preliminary plat and construction plan review.

After issuance of an overall development plan development order, the developer may file an application for a preliminary plat and construction plan (PPR) development order. The PPR shall be filed, processed and approved pursuant to sections 3.4 and 3.18. The application shall be consistent with the approved overall development plan and the requirements of this Code.

(a) *Procedure and required submittals.* An application for preliminary plat and construction plan review, the proper fee, and sufficient copies of the exhibits, as determined by the GMD, shall be filed with the GMD. Exhibits shall include:

(1) General information.

- a. Name of subdivision; name, address, telephone number of the subdivider, subdivision designer, professional engineer and registered surveyor;
- b. Total acreage in tract, acreage in public or other land usage, total number of lots, linear feet in streets;
- c. Names and location of adjoining subdivisions and streets;
- d. Other supplemental materials or any deed restrictions or protective covenants for the subdivision and any other information considered by either the applicant or the Development Review Committee to be pertinent to the review of the preliminary plat and construction plan;
- e. Parcel ID of the subject property;
- f. Construction plans shall be submitted in a format and scale approved by the City Development Engineer.
- g. A preliminary plat shall be submitted in the same format as required for final plats by F.S. 177, and by the applicable provisions of this Code.
- h. All existing site data required by Sec. 3.29(b)(2); and
- i. A signed and sealed survey of the subject property, prepared by a surveyor having a valid state professional surveyor and mapper license, showing the boundaries of the project must be submitted. Said survey must include the width of the right-of-way of the street on which the property is situated and those of the closest streets in both directions together with dimension ties to the centerline of the rights-of-way. It must also include any buildings on the property, any existing streets or roads (whether by plat, deed, easement or physically on-site), watercourses and section lines abutting the property or included in the legal description and any known easement. When any public corner, required by F.S. 177, part III, as amended, to be reported, is used in the boundary survey, the certified corner report number must be depicted on the survey drawing. If a new report is required by the statute or in a case where the corner has not previously been reported, a copy of the new report must be attached to the survey if the survey is submitted before the certified corner report

number is available. Said survey must be certified as meeting the requirements of F.A.C. 5J-17, pursuant to F.S. § 472.027, as amended.

(2) Proposed site data and construction details.

- a. All proposed data required by Sec. 3.29(b)(3).
- b. Street rights-of-way, pavement widths, grades and elevations, street names, plans, profiles, and, cross sections.
- c. Other rights-of-way or easements, including locations, dimensions and purposes.
- d. Plans for all underground utilities, including but not limited to sanitary sewers; storm sewers; water lines; and electric lines showing connections to existing systems, or proposals for developing new water supply; storm drainage; and sewage disposal systems; storm and sanitary profiles; and, cross sections; and inverts and top elevations of structures.
- e. Contour changes, dikes or any created water bodies or changed watercourses.
- f. Bulkheads and bridges; engineering plans, and cross sections.
- g. Street centerline dimensions, scalar block and lot layouts, lot and block numbers.
- h. Areas to be used for purposes other than residential and public; and with the purposes, location and dimensions of each indicated.
- i. Information on essential services, including electric or gas services, including a commitment from the provider that adequate electric or gas service, where appropriate, will be available prior to issuance of the development order.

(b) *Developer's option to commence construction.* The developer may elect to commence construction of the subdivision after the preliminary plat development order has been issued and may at the same time apply for a final plat or may apply for a final plat prior to commencement of construction.

(c) *Development permits required prior to commencement of construction.* No construction shall commence nor shall an application for a final plat be accepted unless a preliminary plat development order has been issued. If the developer elects to commence construction prior to or concurrently with final plat approval, the developer shall notify the City Manager or GMD of that intention. The City Manager shall then issue a development permit authorizing the commencement of construction pursuant to the approved construction plans; provided all other permits from federal, state or regional agencies have been issued.

Sec. 3.31. Final plat review.

After the preliminary plat development order has been issued pursuant to section 3.30, the developer may submit an application for a final plat. No improvements, including streets, shall be accepted and maintained by the City unless and until the final plat has been approved by the City Council, and has been duly recorded by the clerk of the circuit court in the County. The clerk shall record only those final plats which have been submitted for recording by the City Manager.

(a) *Procedures.* An application for a final plat shall be filed, processed and approved pursuant to section 3.4 The submittals shall be consistent with the issued preliminary plat development order and shall include any conditions.

(1) The developer shall submit as the final plat only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time. Such portion shall conform to all requirements of this Code.

(2) The final plat shall be prepared by a currently registered land surveyor at a deemed appropriate by the City Surveyor. All final plats shall be prepared on standard sheet sizes as required by F.S. 177, as amended, and shall be 22 inches x 28 inches, including a three-inch binding margin on the left side and a one-inch margin on the other three sides. To ensure legibility, all lettering upon the plat shall have a minimum height of 0.10 inches.

(b) Required submittals.

(1) The following information shall be shown on the submittals:

- a. Name of subdivision, date of survey, north point and graphic scale.
- b. A vicinity map drawn at scale of one inch equals 400 feet, or other scale deemed appropriate by the City Development Engineer.
- c. Names and locations of all adjoining or interior subdivisions, City limit lines, bulkhead lines, property lines, rights-of-way and easements.
- d. Accurate location and legal description of all monuments, markers and control points. The legal description of the property being platted shall appear on sheet one of the final plat.
- e. Sufficient survey data to readily determine and reproduce on the ground every straight or curved boundary line, lot line, right-of-way line, easement line, bulkhead line and setback line, including, but not limited to, linear dimensions, bearings or deflection angles, radii, arcs and central angles. All dimensions shall be measured to the nearest 1/100 of a foot and all angles to the nearest second of a degree.
- f. All proposed rights-of-way, easements and areas to be dedicated to public use with the purpose of each stated.
- g. Areas to be used for purposes other than residential and public, if any, with the purpose, location and dimensions of each indicated.
- h. Lot and block numbers, street names and all right-of-way or easement widths.
- i. Signed certificates shall appear on sheet 1 of all final plats. Such certificates shall be in accordance with the format and specific language set forth in this Code. The following signed certificates shall be completed on the final plat prior to submission: dedication, joinder and consent to dedication, all required acknowledgements, certificate of surveyor, certificate of approval by a City registered land surveyor, certificate of approval by the City Council, certificate of approval by the City Manager, and Volusia County Clerk of Court.
- j. The final plat shall include such additional information as may be required by F.S. 177, as amended.

(2) The following information shall be provided on sheets separate from the final plat:

- a. Name, address and telephone number of the subdivider, subdivision designer, professional engineer, registered surveyor, abutting property owners, and mortgagees of the property.
- b. A title opinion which meets the requirements of F.S. 177, as amended, and includes other encumbrances which affect the property.
- c. Any deed restrictions or protective covenants, with the appropriate filing fees.
- d. Such engineering plans, cross sections, plan and profile drawings of streets, bulkheads, bridges, sidewalks, water distribution systems, water treatment plants, sewerage collection systems, sewage treatment plants, and storm sewer systems as required by the City.

(3) If the developer elects to construct the improvements after the issuance of the final plat, the following information shall be provided in addition to paragraphs (1) and (2) of this subsection:

- a. A copy of an executed construction contract or signed and sealed professional engineer's estimate of the total construction cost which encompasses all required improvements.
- b. A performance guarantee in accordance with section 3.33.

- c. All items required in subsections (b)(4)a. – d. of this section must be provided after subdivision improvements have been completed.
 - (4) Upon completion of construction of the required improvements, the information provided for in Sec. 3.34(c) shall be provided in addition to paragraphs (1) and (2) of this subsection.
- (c) Recording requirements.
- (1) *Recording period.* No plat may be recorded except during the effective period of a final plat.
 - (2) *Platted dedications.* All streets, alleys, easements, rights-of-way, parks, school sites and public areas shown on an accepted and recorded plat, unless otherwise stated, shall be deemed to have been dedicated or granted, as appropriate, to the public for the uses of the public. The recorded plat shall constitute, unless otherwise stated, an acceptance of said offer to dedicate, grant or reserve. Reservations must be clearly indicated as such, and must include the word "reservations."
 - (3) *Necessary documents.* Prior to recording, an applicant shall furnish the City with those documents necessary to evidence and ensure compliance with such requirements, standards, restrictions or conditions of this Code as requested by the City. Such documents may include, but are not limited to, bonds or other security, agreements, restrictive covenants, deeds and easements, if evidence of compliance with such requirements, standards, restrictions or conditions is not appropriately contained in the preliminary plat development order or on the final plat to be recorded. The final plat and declaration of covenants, conditions and restrictions shall contain the language required by and comply with Chapter 10 concerning stormwater maintenance. The declaration of covenants, conditions and restrictions shall give the city enforcement rights as an intended third party beneficiary to enforce any provision required by this code and any provision required as a condition of development approval.
 - (4) *Recordation of plats.* Plats shall be recorded in the following manner:
 - a. All recording fees, documents and the original plat shall be submitted to the GMD. The applicant shall then transmit the required fees and documents to the clerk of the circuit court, hereinafter referred to as the clerk. The clerk shall, after recording the plat, make three Mylar copies and a number of as determined by the GMD. Also, if the application was prepared on an appropriate CAD/GIS system, the applicant shall provide electronic copies to the GMD.
 - b. The original plat and one Mylar copy of the plat will be retained by the Clerk. One Mylar copy will be returned to the applicant.
 - c. No plat of lands in the City subject to these regulations shall be recorded, whether as an independent instrument or by attachment to another instrument entitled to record, unless and until such plat has been approved by the City Council.
 - d. The City Manager shall obtain a statement that all current and previous taxes have been paid in accordance with F.S. § 197.192, as amended.

([Ord. No. 11-13, § 3, 11-6-2013](#))

Sec. 3.32. Plat certification and dedications.

Following are the plat certifications and dedications of the city:

USE OF DEDICATIONS

A dedication does not transfer ownership of property but is only a perpetual permission to enter upon and to use such areas, by the general public, government personnel (as representative of the public), and utility company personnel (authorized by the government) for the placement, maintenance and use of facilities within each area in accordance with its purpose as described on the plat.

In using the following dedication forms, delete any of the named facilities not involved on the plat and add any other desired to be dedicated to the use of the public, such as retention areas, bike or riding easements, etc.

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In cases of multiple ownership, use the form for two persons and add the additional names in the second line and add spaces for appropriate signatures.

The exact name of the subdivision should be placed in the blank following the word "entitled."

(Single Owner)
DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That, I, _____, being the owner in fee simple of the lands described in the attached plat, entitled _____, located in the City of DeBary, Florida, do hereby dedicate said lands and plat for the uses and purposes therein expressed and dedicate all Streets, Avenues, Roads, Alleys, Arterials, Parks, Canals, Utility Easements, Utility Rights-of-Way, and Drainage Easements shown or described thereon to the perpetual use of the Public, for proper purposes, and IN WITNESS WHEREOF, I, _____, hereunto set my hand and my seal on this _____ day of _____ / _____ / _____ A.D. 20 _____.

Signed _____	(Seal)
Signed, sealed and delivered in the presence of:	

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledging), who is personally known to me or who has produced (type of identification) as identification.

	_____ (Signature of person taking acknowledgment)
	_____ (Name typed, printed or stamped)
	_____ (Title or rank)
	_____ (Serial number, if any)

(Two Persons)
DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That we, _____ and _____, being the fee simple owners of the lands described in the attached plat, entitled _____ located in the City of DeBary, Florida, do hereby dedicate said lands and plats for the uses and purposes therein expressed and dedicate all Streets, Avenues, Roads, Alleys, Arterials, Parks, Canals, Utility Easements, Utility Rights-of-Way, and Drainage Easements shown or described thereon to the perpetual use of the Public, for proper purposes, and

IN WITNESS WHEREOF, We set our hands and seals on this _____ day of _____ / _____ / _____, A.D. 20 _____.

Signed	_____	(Seal)
	_____	(Seal)
Signed, sealed and delivered in the presence of:		

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledging), who is personally known to me or who has produced (type of identification) as identification.

_____	_____
_____	_____
_____	_____
_____	_____

(Corporation)
DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That _____ incorporated under the laws of the State of _____ being the owner in fee simple of the lands described in the attached plat, entitled _____, located in the City of DeBary, Florida, hereby dedicates said lands and plat for the uses and purposes therein expressed and dedicates all Streets, Avenues, Roads, Alleys, Arterials, Parks, Canals, Utility Easements, Utility Rights-of-Way, and Drainage Easements shown or described thereon to the perpetual use of the Public, for proper purposes, and

IN WITNESS WHEREOF, has caused these presents to be signed and attested to by the officers named below and its corporate seal to be affixed hereto on this _____ day of _____ / _____ / _____ A.D. 20 _____.

(Name of Corporation) _____

By _____ (Corporate Seal)

Attest:

_____	_____
_____	_____
_____	_____
_____	_____

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced (type of identification) as identification.

_____	_____
_____	_____
_____	_____
_____	_____

(Individual)
JOINDER AND CONSENT TO DEDICATION

I, _____, hereby certify that I am the holder of a Mortgage, Lien, or other encumbrance upon the property shown and described in the attached plat, entitled _____ located in the City of DeBary, Florida, and that I hereby join in,

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and consent to, the dedication, shown on the plat, of the lands therein, and described by the owner thereof, and agree that my Mortgage, Lien, or other encumbrance, which is recorded in Official Records Book _____, at Page _____, of the Public Records of Volusia County, Florida, shall be subordinate to the said dedication.

Signed and Sealed on this _____ day of _____ / _____ / _____, A.D. 20 _____

By _____	(Seal)
Signed, sealed and delivered in the presence of:	

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledging), who is personally known to me or who has produced (type of identification) as identification.

	_____ (Signature of person taking acknowledgment)
	_____ (Name typed, printed or stamped)
	_____ (Title or rank)
	_____ (Serial number, if any)

(Two Persons)
JOINDER AND CONSENT TO DEDICATION

WE, _____, and _____, hereby certify that we are the holders of a Mortgage, Lien or other encumbrance upon the property shown and described in the attached plat, entitled _____ located in the City of DeBary, Florida, and that I hereby join in, and consent to, the dedication, shown on the plat, of the lands therein, and described by the owner thereof, and agree that our Mortgage, Lien, or other encumbrance, which is recorded in Official Records Book _____, at Page _____, of the Public Records of Volusia County, Florida, shall be subordinated to the said dedication.

Signed and Sealed on this _____ day of _____ / _____ / _____ A.D. 20 _____

By _____	(Seal)
By _____	(Seal)
Signed, sealed and delivered in the presence of:	

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledging), who is personally known to me or who has produced (type of identification) as identification.

	_____ (Signature of person taking acknowledgment)
	_____ (Name typed, printed or stamped)

		_____ (Title or rank)
		_____ (Serial number, if any)

(Corporation)
JOINDER AND CONSENT TO DEDICATION

_____ incorporated under the laws of the State of _____ hereby certifies that it is the holder of a Mortgage, Lien, or other encumbrance upon the property shown, and described in the attached plat, entitled _____, located in the City of DeBary, Florida, does hereby join in, and consent to, the dedication, shown on the plat, of the lands therein, and described by the owner thereof, and agrees that its Mortgage, Lien, or other encumbrance, which is recorded in Official Records Book _____, at Page _____, of the Public Records of Volusia County, Florida, shall be subordinated to the said dedication.

IN WITNESS WHEREOF: _____ Has caused these presents to be signed in its Corporate Name by its _____, its Corporate Seal to be hereunto affixed and attested by its _____ this _____ day of _____ / _____ / _____ A.D. 20 _____.

Name of Corporation _____

By _____ (Title) _____	SEAL
Attest _____ (Title) _____	
Signed, sealed and delivered in the presence of:	

STATE _____ OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced (type of identification) as identification.

		_____ (Signature of person taking acknowledgment)
		_____ (Name typed, printed or stamped)
		_____ (Title or rank)
		_____ (Serial number, if any)

CERTIFICATE OF PROFESSIONAL SURVEYOR AND MAPPER

KNOW ALL MEN BY THESE PRESENTS, That the undersigned, being a professional land surveyor and mapper licensed in the State of Florida, does hereby certify that this plat was prepared under my direction and it complies with all of the survey requirements of F.S. ch. 177.

	Seal
Dated _____	By _____
	LS# _____

CERTIFICATES OF APPROVAL

Certificate of Approval by Growth Management Director

THIS IS TO CERTIFY, THAT ON _____ / _____ / _____ This plat was approved.

	By _____ Land Development Manager or Authorized Representative
--	--

Certificate of Approval by County Registered Surveyor

THIS IS TO CERTIFY, THAT ON _____ / _____ / _____ This plat was approved.

	By _____ County Registered Surveyor
--	--

Certificate of Approval by City Council of the City of DeBary, Florida

THIS IS TO CERTIFY, THAT ON _____ / _____ / _____ the foregoing plat was approved by the City Council of the City of DeBary, Florida.

_____ Mayor of the City of DeBary	CITY SEAL
Attest: _____ City Clerk of the City of DeBary	

Certificate of Clerk

I HEREBY CERTIFY, That I have examined the foregoing plat and find that it complies in form with all the requirements of chapter 177, Florida Statutes, and was filed for record on _____ / _____ / _____ at _____ File No. _____ .

_____ Clerk of the Circuit Court in and for Volusia County, Florida
--

Division 6. INSTALLATION, GUARANTEE AND INSPECTION OF REQUIRED IMPROVEMENTS

Sec. 3.33. Developer's guarantee (or surety).

- (a) *Required or guaranteed improvements.* Neither a final plat development order nor a certificate of occupancy for building development shall be issued until the developer has installed the improvements required by this Code or has guaranteed that such improvements will be installed.
- (1) The developer's guarantee (or surety), in lieu of installation of improvements, shall be in an amount that is 115 percent of the construction costs of all improvements, including landfill, based per an executed construction contract, calculated, signed & sealed by the developer's professional engineer or architect and verified by the City Development Engineer or City Manager as appropriate. Such guarantee shall be in the form of one or more of the following: certified check; bond; cash deposited in an escrow account; a first mortgage on his property; letter of credit; or such other guarantee approved by the City Attorney. Such guarantee may be reduced from the original guarantee on a pro rata basis according to the value of any improvements installed as verified by the City Development Engineer or City Manager, as appropriate.
 - (2) In the case of building development pursuant to a granted development order, only landscaping and/or tree replacement improvements may be guaranteed by the developer prior to the issuance of a certificate of occupancy. All other required improvements shall be installed and approved prior to the issuance of a certificate of occupancy.

- (b) *Installation of improvements.* A state registered professional engineer or architect, as appropriate, shall be employed by the developer to design all required improvements and to inspect and certify that the installation of all required improvements is in conformity with the requirements and standards set forth in this Code and all other specifications or requirements of the City.
- (c) *Required improvements.* The following improvements are considered required for the purposes of this division:
- (1) Survey reference markers and monuments;
 - (2) Streets, driveways and off-street parking and loading areas;
 - (3) Storm drainage system;
 - (4) Sidewalks, walkways and bicycle facilities;
 - (5) Sanitary sewage disposal system;
 - (6) Water supply systems;
 - (7) Street name signs, pavement markings, regulatory signs, and other traffic control devices;
 - (8) Bridges;
 - (9) Bulkheads;
 - (10) Erosion control;
 - (11) Utility lines;
 - (12) Curb and gutter;
 - (13) Landscaping, screening, buffers;
 - (14) Tree removal, relocation and replanting;
 - (15) Any other required improvements.

Sec. 3.34. Inspections and tests.

- (a) *General.* Appropriately staged inspections during construction shall be called for. It shall be the responsibility of the developer or the developer's contractor to notify the City Development Engineer or City Manager and arrange for these inspections. Tests called for under this section shall be performed by the City or by a competent engineering testing firm, which shall have an engineer registered in the state as one of the responsible officials of the firm.
- (b) *Inspections.*
- (1) The developer shall provide written authorization which will enable City staff personnel to enter upon the property to be developed and make periodic inspections at each stage of construction. During construction the developer shall notify the City Development Engineer or City Manager, where appropriate, that a City inspector can be sent to make an inspection. The City shall furnish an inspector at the site within a reasonable length of time, during normal working days and hours.
 - (2) The purpose of these inspections is to ensure that construction is in compliance with the granted development order. The City accepts no responsibility or liability for the work, or for any contractual conditions involving acceptance, payment or guarantees between any contractor and the developer, by virtue of these inspections. The City assumes no responsibility or commitment guaranteeing acceptance of the work, or for subsequent failure, by virtue of these inspections.
 - (3) Upon completion of the improvements and receipt by the City Engineer of the documents required in subsection (c) of this section, the developer may request, and the City Manager will schedule, a final on-site inspection of the improvements by all applicable department representatives collectively on a date specified by the developer. The documents required in subsection (c) of this section shall be submitted by the developer at least five days prior to

the inspection date. The developer shall be represented at the inspection as well as the developer's engineer and contractor.

- (4) However, if any aspect of the work being performed does not comply with acceptable standards, corrections shall be required by the City inspector as a condition for City acceptance. All improvements shall be installed, and have the approval of the City Development Engineer and/or other City agencies prior to acceptance by the City Council, where required, or issuance of a certificate of occupancy.
- (c) *Completion of installation of required improvements.* Upon completion of the above inspections or prior thereto, the following, where required, shall be provided to the City Development Engineer and/or other appropriate City agencies:
- (1) Test results.
 - (2) Maintenance guarantees, in accordance with provisions of this Code, for facilities to be dedicated or conveyed to the City or a property owners' association.
 - (3) As-built drawings for utilities, drainage, pedestrian systems, both on and off site.
 - (4) Certification by the developer's engineers that all improvements were installed in accordance with the granted development order, review of as-builts for compliance with Americans with Disabilities Act as applicable.
 - (5) Electronic as-built construction plans signed and sealed by the professional surveyor which encompass all required improvements, and as-built digital CAD files shall be provided to the GMD.
- (d) Responsibility during maintenance period for improvements to be dedicated or conveyed to the City or to a property owners' association.
- (1) Following approval by the City of the construction of improvements to be dedicated or conveyed to the City or a property owners' association, the developer shall be required to maintain the improvements within the development in first-class condition until the City Council accepts the improvements for City maintenance, or they are turned over to a property owners' association for maintenance. Such association shall have all duties and powers necessary to provide for the perpetual maintenance of the improvements. The developer's maintenance period shall be a minimum of one year. During that maintenance period, the developer will be expected to provide any maintenance required, including, but not limited to:
 - a. Repair and replacement of any system component, or failed section of pavement, etc.
 - b. Correction of design faults.
 - c. Control of erosion, replacement of sod, removal of soil washed onto pavement or into drainage system.
 - d. Lost, destroyed or disturbed survey improvements.
 - (2) The developer may request the City Council to accept the improvements for maintenance at the time of or after the acceptance of the construction, or during the developer's one-year maintenance period. When this occurs, it shall be the responsibility of the developer to sod all areas of the constructed improvements, where the potential for erosion exists. Such areas which may require sodding shall include but not be limited to shoulders, swales, drainage systems and retention areas. When such sodding is completed in a manner which is satisfactory to the City Development Engineer, the City Council may accept the improvements for City maintenance; provided that all other improvements are in a first-class condition. However, the cash guarantee required by subsection (d)(3) of this section will be retained for the balance of the developer's one-year maintenance period to guarantee all improvements against defects in design, materials and workmanship. The City Council shall not accept the improvements for City maintenance nor release the cash guarantee until it has determined that all improvements are in a first-class and acceptable condition.
 - (3) All improvements to be dedicated or conveyed to the City or a property owners' association shall be covered by a cash maintenance guarantee which shall be provided by the developer, and shall be in the amount of 15 percent of the construction costs of all improvements, including landfill. The form of the guarantee shall be as prescribed

in section 3.33(a)(1) and approved by the City attorney. The developer shall guarantee all improvements against defects in design, material and workmanship, in addition to guaranteeing maintenance for the required period of time.

- (4) Approximately 60 days prior to the expiration of the maintenance period, the developer shall request the City Manager to schedule an inspection by the City Development Engineer and/or other appropriate City personnel. All deficiencies of design, materials, workmanship and/or maintenance identified during the final inspection shall be corrected by the developer.
- (5) Upon evidence of correction of all deficiencies by the City Development Engineer and other appropriate City agencies, the City Manager shall recommend, and the City Council may accept those improvements dedicated or conveyed to the City for City maintenance. Those improvements to be conveyed to a property owners' association shall be accepted by the property owners' association pursuant to agreements between the developer and the property owners' association.
- (6) Upon acceptance of the improvements by the City Council or property owners' association, the maintenance guarantee shall be released to the developer, less any charges for maintenance or corrections incurred by the City during the maintenance period.

(e) *Responsibility for maintenance of privately owned improvements.* Any improvements made to private property pursuant to a development permit issued under this Code shall thereafter be maintained by the private property owner and/or lessee or renter to the minimum standards of this Code and the improved plans at his expense. Failure to maintain such improvements shall constitute a violation of this Code.

Division 7. RIGHT OF WAY UTILIZATIONS PERMIT

Sec. 3.35. Regulations.

- (a) *Purpose.* The purpose of this division is to regulate the location, installation or adjustment of any facility on or under City rights-of-way (ROW), traveled ways or easements or other City-owned property (City property), including canals and drainage easements or ditches, by any person.
- (b) *Permit required.* Any person placing, installing or adjusting any facility on City property shall have been issued a use permit prior to the commencement of construction. A facility includes driveway connection to a City road, and overhead, on and underground utilities.
- (c) *Jurisdiction.* This division shall apply to and be enforced on all City property.
- (d) *Application procedure.* Notwithstanding any other provisions of this Code, an application for a use permit shall be filed, processed and approved as follows:
 - (1) An application for a ROW utilization permit shall be filed with the LDD and the required filing fee paid.
 - (2) Required submittals shall be submitted with the application. The submittals shall meet the requirements of this Code and contain the following information:
 - a. A vicinity map showing the work area location at a scale of one inch equals 2,000 feet;
 - b. The offset from the centerline of the right-of-way or road to the proposed facility;
 - c. The road right-of-way and pavement width;
 - d. The distance from the edge of the travelled way to the facility and the location of all other utilities within the work area;
 - e. One or more typical cross sections as required by the City Development Engineer to adequately reflect the location and construction details of the proposed facility;
 - f. The minimum vertical clearance above or below the road, ground or pavement;
 - g. All proposed fire hydrants;

- h. Any other information required by the City Development Engineer.
- (3) The GMD shall determine the completeness of the application within three days of filing. If the application is determined to be incomplete, it shall be returned to the applicant. If the application is determined to be complete, the GMD shall transmit it to the City Development Engineer.
 - (4) Upon receipt, the City Development Engineer shall review the application. If the application meets all of the requirements of this Code, it shall be approved within seven working days of receipt. Upon such approval, the City Development Engineer shall return the application to the GMD with approval noted by the City Development Engineer or his authorized representative. If the application is denied it shall be returned to the GMD, with the reasons for denial noted thereon, within seven working days of receipt.
 - (5) If the application has been approved, the GMD shall issue the use permit immediately. If the application has been denied, the GMD shall immediately notify the applicant. If denied, the applicant or any aggrieved person may refile in accordance with the provisions of this subsection, as for a new application, or the applicant or any aggrieved person may appeal the denial to the City Council, as provided in section 3.13.
 - (6) A guarantee of completion of the permitted construction may be required by the City Development Engineer if in his opinion the proposed construction would constitute a significant traffic hazard if not completed as proposed. Such guarantee shall be the same as established in section 3.33 and shall be returned to the permittee upon satisfactory completion of construction or shall be used to ensure completion of construction by the City where construction is not satisfactorily completed.
 - (7) The use permit may be revoked by the City Development Engineer for reasons of public safety.

Sec. 3.36. Stipulations.

- (a) *Permissive use.* A use permit is a license for a permissive use only, and the placing of facilities upon City property pursuant to the permit shall not operate to create or to vest any property right in the holder thereof, and the issuance of a use permit does not relieve the permittee of the need for obtaining any other permits that may be required by the appropriate authorities. The permittee shall be responsible for maintenance of all such facilities permitted except for those conveyed to the public and accepted for maintenance by the City.
- (b) *Assumption of risk.* The rights and privileges herein set out are granted only to the extent of the City's right, title and interest in the land to be entered upon and used by the applicant; and the applicant shall at all times assume all risk of and defend the City from and against any and all loss, damage, cost or expense arising in any manner on account of the exercise or attempted exercise by the applicant of the aforesaid rights and privileges.
- (c) *Encroachment or interference.* The construction and/or maintenance of a utility or facility shall not interfere or encroach upon the property and rights of a prior occupant.
- (d) *Relocation or protection of facilities.* In the event of widening, repair, reconstruction or improvement of City property, including but not limited to installation of pavement, drainage structures or sidewalks, the permittee shall, upon notice by the City Development Engineer, relocate or protect existing facilities to clear such construction at no cost to the City.
- (e) *Other.*
 - (1) Directional Bores SHALL NOT be performed within the right of way on Friday, Saturday, Sunday, or Holidays including any day prior to a Holiday without written County Engineering/Inspector approval.
 - (2) No Staging/Unloading/Parking of any vehicle(s) is allowed in the right of way or on sidewalks. Any damages to the right of way will be regraded/sodded and sidewalks to be repaired/replaced with 6-inch concrete by the contractor, per ADA Standards.
 - (3) No trench/excavations shall be left open or unattended overnight within the right of way.
 - (4) Only Directional bores methods can and must be performed. Pneumatic, Push-Pull, Mole or Missile bores are not permitted under roadways.

- (5) Directional bores, Under Roads:
 - a. From diameters 1-3 inches must be a MINIMUM of 36 inches below edge of pavement.
 - b. Directional bores 4 inches or greater must be 10 times the diameter of the bore/back reamer, which-ever is greater, below edge of pavement and to extend to the right of way on either side.
- (6) Installation shall be at 36" MINIMUM COVER from top of new utility to existing ground (typical for all installations), or as marked up otherwise by City.
- (7) All directional drill mud/slurry must be cleaned/reclaimed from the right of way/bore pits and dis-posed of on an approved private offsite /off right of way location.
- (8) Bore logs are to be made available at installation completion upon request
- (9) Other applicable Construction Standards as included in the City code.

Sec. 3.37. Supporting regulations.

- (a) *City, county, state and federal regulations and specifications.* When applicable, the provisions of the latest editions of the following references shall apply:
 - (1) City of DeBary Land Development Code;
 - (2) FDOT Standard Specifications for Road and Bridge Construction;
 - (3) Regulations for the Transportation of Natural and Other Gas by Pipelines (parts 191 and 192, title 49 of the Code of Federal Regulations);
 - (4) USDOT Manual on Uniform Traffic Control Devices;
 - (5) FDOT Utility Accommodation Guide;
 - (6) FDOT Florida Greenbook;
 - (7) FDOT Roadway and Traffic Design Standards.
 - (8) Volusia County USE Permitting as the City's Utility provider and as may affect any County operated and maintained facility.
- (b) *Conflict of regulations.* In the event of a conflict between the regulations and specifications referred to in subsection (a) of this section, and the provisions of this Code, the most restrictive shall apply.

Sec. 3.38. Qualifications of permittee.

Subject to satisfaction of and compliance with requirements contained herein, a use permit may be issued to the following:

- (a) *Utility companies.* Utility corporations or companies (including county and municipal utilities) that will be servicing the installed facility.
- (b) *Contractors.* Contractors responsible for the installation of any utility facility or structure subject to these regulations.
- (c) *Private citizens.* Private citizens, corporations or organizations with a reasonable and legitimate purpose in using the right-of-way, which purpose poses no threat or danger to the public health, safety or welfare.
- (d) *Underground utility contractors.* Underground utility contractors must hold a current county or state general contractor's certificate, or a current county or state plumbing contractor's certificate. The City may require prequalification of the contractor for the type of work to be performed.

Sec. 3.39. Exceptions.

- (a) *Service connections without pavement cuts.* Scheduled short side service connections, including but not limited to water and sewer hookups with no pavement cut or road crossings and all scheduled maintenance repair (i.e., pole replacement with no change in location or alignment, splice pits, etc.) in the right-of-way where limits of excavation are

not in or within six feet of the edge of the traveled way, will not require a use permit; however, prior notification of the commencement of such work shall be given to the City Development Engineer before starting work. Failure to notify may result in a penalty fee as determined by resolution of the City Council.

- (b) *Relocations requested by the City.* On any City construction project where facilities on City property are requested by the City to be relocated, a use permit may be required. An application shall be submitted by the person responsible for the relocation as required by section 3.35(b), but no fee will be charged, providing there is no expansion of the facilities involved.
- (c) *Emergency repair.*
 - (1) Emergency repairs may be performed without obtaining a use permit prior to such repair. Emergency repair work shall be completed in accordance with applicable directives from the City or other authority as expeditiously as possible. During normal City working times, verbal approval for the emergency work shall be obtained from the City Development Engineer. If emergency work is required at night, on weekends or holidays, the City Development Engineer shall be notified of all emergency repair work by 10:00 a.m. the first workday following beginning of such repair work. An application for a use permit shall be submitted within two working days following commencement of emergency repair work. The person, company or utility performing the emergency repair work shall be exempt from the requirements of section 3.40 for prior notification to other agencies, with exception of gas utility companies, but shall notify those agencies by 10:00 a.m. the day following the commencement of the emergency repair work.
 - (2) Notification to gas utility companies. Notification to gas utility companies shall be accomplished prior to commencement of any emergency work. This may be accomplished by telephone or other expeditious method.
- (d) *Performance criteria.* For those situations described in subsections (a), (b) and (c) of this section, all work must be performed in compliance with the other provisions of this Code and all other applicable laws and regulations.
- (e) *City Council approved construction projects.* City construction projects on City property which have been approved by the City Council may comply with the permitting provisions of this Code.

Sec. 3.40. Notification to other agencies.

- (a) *Notification required by City Development Engineer.* Notification to gas, power, communications, potable water, reclaim water, and sanitary sewer utility companies shall be accomplished prior to commencement of the permitted work. Required by the City Development Engineer, the applicant shall notify in writing all other users of City property in the immediate vicinity of the permitted work, stating the work proposed by the applicant and enclosing a plan of the permitted work in order to determine if there are any objections to it. Any objections to the permitted work by affected right-of-way users or municipalities must be forwarded in writing to the applicant and to the City Development Engineer within seven days of said letter. Except as herein provided, the City Development Engineer may hold a permit application for a period not to exceed seven days, to allow time for the receipt of objections to the permitted work. The seven-day period may be waived if the applicant includes proof that other affected right-of-way users have been notified and that said users have no objections to the issuance of the use permit.
- (b) *Verification of notification.* The applicant shall verify the notification to other users by submitting the proof called for in subsection (a) of this section and completing the section provided in the application for such verification. It is the full and complete responsibility of the applicant to determine that all other users are notified of the proposed work. Any work performed without such notification, shall be at the sole risk of the applicant.

Sec. 3.41. Responsibility for compliance.

The applicant assumes full and total responsibility for compliance with this Code, supporting regulations, additional requirements of the City Council, and any municipal, county, state or federal laws, ordinances or other directives which may apply to the proposed work.

Sec. 3.42. Permits and inspections.

- (a) *Copy to applicant.* Upon approval of the application, one copy of the approved plans and the use permit will be returned to the applicant.
- (b) *Permit available on site.* The use permit must be available at all times at the work site while work is being performed. Any work in progress on, or use of, City property without a valid use permit available at the site shall be suspended until such time as a valid use permit is produced on the site.
- (c) *Permit valid for one year.* The permit is valid for a period not to exceed one year. The expiration date will appear on the permit. No work will be performed under an expired permit. Prior to expiration, a request for an extension may be submitted to the City Manager. Extension requests shall be submitted a minimum of 30 days prior to the expiration date of the permit. Only one 90-day extension may be granted.
- (d) *Modification of permits.* Letter requests for modification of permits will be processed in accordance with provisions of sections 3.40-3.41 and the utility location standards of Chapter 10. The letter requesting modification must contain the appropriate gas company name, the gas notification identification number, and to expedite processing, a statement that the other right-of-way users have no objection to the requested modification.
- (e) *Inspection and approval of materials and work.* The City Engineer shall have the right to inspect and approve materials and/or phases of permitted work at any time. Final inspection and acceptance of the permitted work by the City Engineer must be obtained prior to completion of the work. Work will be considered incomplete until that portion of the permit indicating final inspection and approval has been signed and dated by the City Engineer.
- (f) *Notice to City for subterranean road crossing.* The permittee shall notify the City Manager at least 24 hours prior to beginning work, and prior to commencing any subterranean road crossing, whether by open cutting, boring, jacking, pushing, pulling, driving, or some combination of these. The date, time and location regarding these scheduled subterranean crossings must be given at the time of this notification.
- (g) *Underground facilities.* Underground facilities (buried cable, water lines, etc.) will not be covered until approved by the City Engineer, either through on-site inspection or prior authorization.
- (h) *Failure to obtain inspections.* Failure of the permittee to obtain the appropriate inspections prior to proceeding with work shall not relieve the permittee from reexcavation or other measures necessary for the inspection of the work.
- (i) *Correction of noncompliance.* Any and/or all items found not to be in compliance with these regulations will be immediately corrected by the permittee.
- (j) *Permit termination.* The City Engineer's signature on the completion line on the permit terminates that permit, and no further work may be done under the permit except repairs as directed by the City Manager.