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Sec. 33-01. - Title.

This chapter shall be entitled the "City of DeLand Land Development Code."

Sec. 33-02. - Authority.

This land development code is enacted pursuant to the requirements and authority of the City Charter, effective March 8, 1988, and the general powers in chapter 166, Florida Statutes (City Government).

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-03. - Applicability.

33-03.01. *General applicability.* Except as specifically provided below, the provisions of this chapter shall apply to all development in the city, and no development shall be undertaken without prior authorization pursuant to this chapter.

33-03.02. *Exceptions.*

- (a) *Previously issued development permits.* The provisions of this chapter and any amendments thereto shall not affect the validity of any lawfully issued and effective development permit if:
 - 1. The development activity authorized by the permit has been commenced prior to the effective date of this chapter or any amendment thereto, or will be commenced after the effective date of

this chapter but within six months of issuance of the building permit;
and

2. The development activity continues without interruption (except because of war or natural disaster) until the development is complete. If the development permit expires, any further development on that site shall occur only in conformance with the requirements of this chapter or amendment thereto.

- (b) *Previously approved development orders.* Future development under a previously issued development order may be subject to the requirements of this chapter. The provisions of all previously approved developments of regional impact, planned development ordinances, recorded subdivisions and plat agreements shall continue in effect, provided such development orders have not expired. All provisions of such valid, previously approved development orders shall supersede and prevail over any conflicting provisions of this chapter. To the extent that a previously issued development order is not in conflict with this chapter, then the provisions of this chapter shall apply to all development undertaken subsequent to the enactment of this chapter.
- (c) *Consistency with plan.* Nothing in this section shall be construed to authorize development that is inconsistent with the city Comprehensive Plan.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-04. - Findings and intent.

33-04.01. *Findings.*

- (a) *Statutory requirement.* Chapter 163, Florida Statutes, requires each Florida local government to enact a single land development code which implements and is consistent with the local Comprehensive Plan, and which contains all Land Development Regulations for the city.
- (b) *General public need.* Controlling the location, design and construction of development within the city is necessary to maintain and improve the quality of life in the city.
- (c) *Findings relating to specific subject areas of this chapter.* Findings relating to specific subject areas of this chapter are located in association with those subject areas.

33-04.02. *Intent.*

- (a) *General intent.* The provisions of this chapter shall be construed and implemented to achieve the following intentions and purposes of the city commission:

1. To establish the regulations, procedures and standards for review and approval of all proposed development in the city.
2. To foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, aesthetically pleasing and socially beneficial development of the city in accordance with the Comprehensive Plan.
3. To adopt a development review process that is:
 - a. Efficient, in terms of time and expense;
 - b. Effective, in terms of addressing the natural resource and public facility implications of proposed development; and
 - c. Equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of the city.
4. To implement the city Comprehensive Plan as required by the "Local Government Comprehensive Planning and Land Development Regulation Act".
5. To provide specific procedures to ensure that development orders and permits are conditioned on the availability of public facilities and services that meet level of service requirements.

(b) *Intent relating to specific subject areas of this chapter.* Statements of intent relating to specific subject areas of this chapter are located in association with those areas.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-05. - Rules of interpretation.

33-05.01. *Generally.* In the interpretation and application of this chapter all provisions shall be liberally construed in favor of the objectives and purposes of the city and deemed neither to limit nor repeal any other powers granted under state statutes.

33-05.02. *Responsibility for interpretation.* In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of this chapter, the planning director shall be responsible for interpretation and shall look to the city Comprehensive Plan for guidance. Responsibility for interpretation by the director shall be limited to standards, regulations and requirements of this chapter, but shall not be

construed to include interpretation of any technical codes adopted by reference in this chapter, nor be construed as overriding the responsibilities given to any commission, board or official named in other sections or articles of this chapter.

33-05.03. *Computation of time.* The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded.

33-05.04. *Delegation of authority.* Whenever a provision requires the head of a department or some other city officer or employee to do some act or perform some duty, it is to be construed to authorize delegation to professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

33-05.05. *Gender.* Words importing the masculine gender shall be construed to include the feminine and neuter.

33-05.06. *Number.* Words in the singular shall include the plural and words in the plural shall include the singular, unless otherwise indicated.

33-05.07. *Shall, may, should.* The word "shall" is mandatory; "may" and "should" are permissive.

33-05.08. *Written or in writing.* The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

33-05.09. *Year.* The word "year" shall mean a calendar year, unless otherwise indicated.

33-05.10. *Day.* The word "day" shall mean a working day, unless a calendar day is indicated.

33-05.11. *Boundaries.* Interpretations regarding boundaries of land use districts shall be made in accordance with the following:

- (a) Boundaries shown as following or approximately following any street shall be construed as following the centerline of the street.
- (b) Boundaries shown as following or approximately following any platted lot line or other property line shall be construed as following such line.
- (c) Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- (d) Boundaries shown as following or approximately following natural features shall be construed as following such features.

33-05.12. *Relationship of specific to general provisions.* More specific

provisions of this chapter shall be followed in lieu of more general provisions that may be more lenient than or in conflict with the more specific provision.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-06. - Reserved for future use.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-07. - Comprehensive plan.

33-07.01. *Plan adopted.* The Comprehensive Plan of the City of DeLand is hereby adopted per Ordinance No. 90-4, as amended.

33-07.02. *Purpose.* It is the purpose of the Comprehensive Plan to provide the general policy guidance to the city and the general public in furthering the development and/or redevelopment of the city in a sound and coordinated manner.

33-07.03. *Interpretation.* The adopted Comprehensive Plan is to be construed as the general policy of the city. When necessary and appropriate, the city commission shall interpret the intended meaning of the document.

33-07.04. *Impact on other ordinances.* This document shall not affect, repeal or limit any existing city ordinances. If any existing ordinance is found to conflict with any policy of this document, the city commission shall take appropriate action to remove such conflict by either modifying the conflicting ordinance or amending this document as appropriate to eliminate such conflict. No new ordinance shall be adopted which shall conflict or contradict the policy direction of this document without first amending the appropriate section, as provided by law.

33-07.05. *Right to amend.* The city commission may amend this document at any time, as provided by law.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-08. - Abrogation.

This land development code is not intended to repeal, abrogate or interfere with any existing easements, covenants, or deed restrictions duly recorded in the public records of the city.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-09. - Severability.

If any section, section, paragraph, sentence, clause, or phrase of this chapter is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of this chapter shall continue in full force

and effect.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-10. - Amendments.

This chapter may be amended from time to time by the city commission of DeLand as herein specified, but no amendment shall become effective unless it shall have been submitted to the planning board for review and recommendation.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-11. - Effective date.

These regulations shall be effective on March 15, 1993.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-12. - Definitions.

As used in this chapter, the following words shall be defined as follows:

Accessway means a paved area intended to provide ingress and egress of vehicular traffic from a public right-of-way to an off-street parking or loading area.

Accessory Dwelling Unit (ADU) means a habitable living unit that provides the basic requirements of shelter, heating, cooking, and sanitation.

Accessory sign means a permanent ground or building sign that is permitted under this article as incidental to an existing use of land.

Accessory structure means a subordinate structure customarily incident to and located upon the same lot occupied by the main use or building and which has no impact on the facilities required to meet the concurrency requirements of this section. Accessory structures include signs, satellite dish antennas, fences, swimming pools, tennis courts, laundry rooms, maintenance buildings, recreational buildings, utility sheds, greenhouses, garages and carports. Provided however, a recreational vehicle, mobile home, trailer or semitrailer, bus, truck, or automobile body, or other similar device shall not be used as an accessory structure or converted into an accessory structure. Temporary structures cannot be used as accessory structures.

Accessory use or building means a subordinate use or building customarily incidental to and located upon the same lot occupied by the main use or building.

Adequacy of necessary public facilities means a determination of whether sufficient public facilities exist or are proposed to maintain the adopted LOS.

Advertising means sign copy intended to directly or indirectly promote the sale or use of a product, service, commodity, entertainment, or real or personal property.

Adverse effects means any modifications, alterations, or effects on waters, associated

wetlands, or shore lands, including their quality, quantity, hydrology, surface area, species composition, or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the reasonable use of property, including outdoor recreation. The term includes secondary and cumulative as well as direct impacts.

Alternative support structure means 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 utility structures.

Amateur (HAM) radio tower means a tower and antenna utilized for the purpose of sending and receiving radio messages and governed by section PROBE-1 of the FCC regulations.

Antenna means any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves. (Does not include satellite dishes).

Apothecary shop means a shop the sole purpose of which is to prepare and sell prescription drugs and related healthcare items including the sale and lease of convalescent aids

Appearance means the outward visible aspect.

Applicant means any person applying for or who has been granted a permit to proceed with a project.

Appropriate means sympathetic, or fitting to the context of the site and the whole community.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured under the federal flood insurance program and where the use is incidental to the use of the principal structure.

Aquifer means an underground formation, group of formations, or part of a formation that is permeable enough to transmit, store or yield usable quantities of water.

Architect means an architect currently registered in Florida pursuant to chapter 481, part I, Florida Statutes.

Architectural feature means a prominent or significant part or element of a building, structure, or site.

Architectural style means the composition of characteristic form and detail, as of buildings of a particular historic period, architectural movement, or of distinctive characteristics.

Area of shallow flooding means areas located within the areas of special flood hazard established in section 33-61.01(d). These areas have special flood hazards associated with Base Flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.

Area of special flood hazard means the area of special flood hazard shall include:

1. All areas designated as an area of special flood hazard pursuant to section 33-61.01(d) of this section. The relevant Flood Hazard Boundary Map and Flood Insurance Rate Maps, and any revisions thereto, are adopted by reference and declared to be a part of this Code.
2. Other areas of the community designated on a map by the engineer as having a one percent or greater chance of flooding in any given year. This may include isolated topographic depressions with a history of flooding or a high potential for flooding.

Area-Wide Traffic Action Mitigation Plan means a plan prepared by an applicant seeking development approval for a development project that will have an impact upon a constrained or backlogged road, which demonstrates that traffic impacts associated with the proposed development will be mitigated 100 percent by mitigation measures to be employed by the applicant.

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

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

Automobile repair means any premises used for repair, rebuilding, or reconditioning of motor vehicle and in addition the uses permitted under automobile service station.

Automobile service station means any building, structure, or land used for the servicing of motor vehicles, including cleaning or detailing, engine tune-ups and repair, wheel balancing, alignment, brake service, and the dispensing or sale of any automobile fuels, oils, or accessories which is considered general automotive servicing as distinguished from automobile repairs. This shall include general service of trucks up to one ton, but exclude the rebuilding or reconditioning of engines and body repair work.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means that portion of a building having its floor below ground level on all sides.

Bed and breakfast homestay means a bed and breakfast facility which is an accessory use to a single-family dwelling unit, 50 years of age or older, in which: no more than six rooms in the principal residential structure are set aside for guest clients; breakfast is

available on site solely to guest clients at no extra charge; length of stay of guest clients ranges from one to 30 days; and the owner/operator of the principal structure resides on site. Bed and breakfast homestay does not include uses such as motels, hotels, community residential facilities, boarding or lodging houses, apartment dwellings, guest cottages or single-family dwelling transient rental facilities.

Bed and breakfast inn means a dwelling unit, 50 years of age or older, in which: up to 12 rooms in the principal residential structure are set aside for guest clients; breakfast is available on site solely to guest clients at no extra charge; length of stay of guest clients ranges from one day to 90 days and the owner/operator of the principal structure resides on-site. Bed and breakfast inn does not include such uses as motels, hotels, community residential facilities, boarding or lodging houses, apartment dwellings, guest cottages or single-family dwelling transient rental facilities.

Beneficial functions of a wetland means those functions, described in the conservation element of the Comprehensive Plan and findings of fact contained at [section] 33-58.01 of this section that justify protection of wetlands.

Berm means a raised form of earth to provide screening or to improve the aesthetic character.

Best management practice means a practice or combination of practices determined by the city to be the most effective, practical means of preventing or reducing the amount of pollution generated by the project to a level compatible with Florida water quality standards found in FAC chapter 17-3. The determination made by the city shall be based upon accepted and normal scientific and engineering standards.

Bicycle trail means any road, path, or way that is open to bicycle travel and is separated from motorized vehicular traffic by demarcation, an open space or by a barrier and is located either within the highway right-of-way or within an independent right-of-way constructed in compliance with Chapter 8 of the current Florida Department of Transportation Plans Preparation Manual for travel by bicycle.

Billboard. Refer to outdoor advertising sign.

Block means all of the property lying within and abutting upon existing or proposed street rights-of-way.

Boarding (lodging) house means a dwelling unit that provides sleeping accommodations for a total of 16 or fewer persons on either a transient or permanent basis, with or without meals, but without separate cooking facilities for individual occupants. Includes the term rooming house.

Buffer means upland areas adjacent to wetlands that are necessary to protect the wetlands and wetland species from the detrimental impacts of development or alteration. The Buffer Zone shall include canopy, under story and ground cover, which consists of, preserved existing vegetation or planted native species.

Building means any structure used or intended for supporting or sheltering any use or

occupancy and which has an impervious roof and walls for 50 percent or more of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof."

Building Code or Florida Building Code means the current edition of the Florida Building Code as adopted by the Florida Building Commission.

Building mass means the gross shape of the building and the relationship of height to width.

Building setback line means a line within a lot or other parcel of land so designed on the final plat, between which line and the adjacent boundary of the street upon which the lot or parcel abuts, the erection of a building is prohibited as prescribed by the applicable zoning ordinance.

Building sign means a sign displayed upon or attached to any part of the exterior of a building, including walls, windows, doors, parapets, marquees and roof slopes of 45 degrees or steeper.

Bulkhead means a retained wall or structure designed to prevent the erosion of land by water actions or acts of nature.

Camouflaged tower means a communication tower designed to unobtrusively 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. It is recognized that due to their height, such structures must be designed with sensitivity to elements such as building massing and architectural treatment of both the communication tower and the surrounding development. Camouflaged towers on developed property must be disguised to appear as either a part of the structure housing a principal use or as an accessory structure that is normally associated with the principal use occupying the property. Camouflaged towers developed on unimproved property must be disguised to blend in with the existing vegetation.

Carnival means any temporary use of land which includes any mechanical device which carries or conveys passengers around, over or along a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement.

Certificate of Capacity means a certificate authorized by the City of DeLand planning department, the city planning board, or the city commission, depending on the type of development, which evidences a determination that required public facility capacity has been reserved for a period not to exceed six months pending the issuance of a final development order or permit.

Certificate of concurrency exemption means a certificate issued by the City of DeLand planning department certifying that a proposed development is exempt from concurrency review.

Certificate of Occupancy means a certificate issued by the City of DeLand certifying that a building or dwelling conforms to the then current edition of the Florida Building Code and is suitable for occupancy.

Change of use means the conversion from one land use category to another. Examples of categories including but not limited to: single-family, multifamily, commercial, office, industrial. This includes the partial conversion of a residence to commercial or office and vice versa.

Charitable carnival means any carnival sponsored or conducted by any charitable, religious, fraternal, youth civic, service or other such organization.

Chief building official means the Chief Building Official of DeLand.

Child care facility means any child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care. The following are not included:

1. Public schools and nonpublic schools and their integral programs.
2. Summer camps having children in full-time residence.
3. Summer day camps.
4. Bible schools normally conducted only during vacation periods.

Clinic means a facility over 5,000 square feet where patients, who are not lodged overnight, are admitted for examination and treatment by one person or a group of persons practicing any form of healing or health care services to individuals, whether such persons be medical doctors, psychiatrists, psychologists, social workers, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists or any such profession the practice of which is lawful in the state.

Clearing means the removal of trees, brush or any other vegetation from the land, not including the ordinary mowing of grass.

Club means buildings and facilities owned and operated by a corporation or association for social or recreational purposes but not operated primarily for profit or to render a service which is customarily provided by a business.

Cohesiveness means unity of composition including design elements of a building or group of buildings and the surrounding environment.

Cold air inflatable (balloons) are stationary promotional balloons that can be created in practically any size. They may or may not have a blower (fan) system that runs continually to keep these inflatables standing tall. Tether straps provide an anchor to keep them in place. Their sturdy construction (from either 7.5 oz. or 10 oz. or 18 oz. vinyl

coated nylon) helps the balloons withstand winds of 30 mph or more without damage.

Coldframe means an unheated outdoor apparatus consisting of a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.

Colocation means the placement of more than one communication antenna, by more than one telecommunication service provider, on a single existing or new communication tower or other alternative support structure.

Collector means a street which carries traffic from local streets to the system of arterial streets and highways including the principal streets within a subdivision, as identified in the City of DeLand's Comprehensive Plan.

Commercial vehicles means tractor-trailers, trucks, or vans with a base curb weight larger than 7,000 pounds, commercial buses designed or used to transport more than 15 persons, general utility trailers in excess of 12 feet, and similar vehicles.

Commercially developed parcel means a parcel of property on which there is at least one walled and roofed structure used, or designed to be used, for other than residential or agricultural purposes.

Commission, city commission means the Board of City Commissioners of DeLand, Florida.

Communication tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative support structures and the like. Amateur (HAM) radio towers, radio and television broadcast studios, telephone company offices and facilities and satellite dishes are not considered as communication towers. Design examples of communication towers are described as follows:

1. *Self-supporting lattice.* A communication tower that is self-supporting and has three or more sides of open-framed supports.
2. *Guyed.* A communication tower that is anchored with guy wires.
3. *Monopole tower.* A single self-supporting tower of spin-cast concrete, concrete, steel, or similar materials containing no guy wires.

Community park means a public park of 20 acres or more designed to handle the day-to-day recreational demands of organized sports activities, group picnic facilities, community playgrounds or other facilities designed for maximum accessibility with a high use rate.

Community garden means an area of land managed and maintained by a group of individuals to grow and harvest food crops and non-food, ornamental crops, such as flowers, for personal or group use, consumption or donation. Community gardens may be

divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

Community residential home. For purposes of this article, the term community residential home includes the following:

1. *Community residential home, multifamily.* A dwelling, licensed to serve clients of the Department of Health and Rehabilitative Services, which provides a living environment for seven to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by support staff as may be necessary to meet the physical, emotional, and social needs of the residents.
2. *Community residential home, single-family.* A dwelling, licensed to serve clients of the Department of Health and Rehabilitative Services, which provides a living environment for six or fewer unrelated residents who operate as the functional equivalent of a family, including such supervision and care by support staff as may be necessary to meet the physical, emotional, and social needs of the residents.
3. *Resident.* Any of the following: an aged person as defined in § 400.618(3), Florida Statutes; a physically disabled or handicapped person; a developmentally disabled person as defined in § 393.063(11), Florida Statutes; a non-dangerous mentally ill person as defined in § 394.455(3), Florida Statutes; or a child as defined in §§ 39.01(8) and (10), Florida Statutes.

Compatibility means harmony in the appearance of two or more external design features in the same vicinity.

Comprehensive Plan means a plan adopted by the City of DeLand pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act.

Conditional use means a use permitted in a particular zoning district only upon demonstration that such use in a specific location will comply with all the conditions and standards for the location or operation of such use as specified.

Condominium means ownership of real property created pursuant to the provisions of Ch. 718, Florida Statutes, which is comprised of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements.

Conservation easement means a right or interest in real property which is appropriate to retaining land or water areas predominately in their natural, scenic, open, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; or maintaining existing land uses; and which prohibits or limits the activities described in § 704.06, Florida Statutes.

Copy, sign means the linguistic or graphic content of a sign.

Corner lot means a lot abutting upon two or more streets at their intersection.

County means the County of Volusia, Florida.

Critical habitat means habitat, which if lost, would result in elimination of listed species individuals from the area in question. Critical habitat typically provides functions for the listed species during restricted portions of that species life cycle.

Crown means the main mass of branching of a plant above the ground.

Cul-de-sac means local streets having vehicular access at one end and being permanently terminated at the other end by a vehicular turnaround.

Day care facility means a nonresidential facility providing care to the infirm, the elderly, or to children. The term day care facility includes family day care homes and child care facilities.

Decorative wall means a wall constructed of brick or other type of finished masonry, which is compatible with the architectural design of the principal development.

Degradation means any adverse or negative modification (from the perspective of the subject species) of the hydrological, biological or climatic characteristics supporting the species, or of plants and animals co-occurring with and significantly affecting the ecology of the species.

Demolition means the tearing down or razing of 25 percent or more of a structure's external walls.

Developer means any person, firm, association, partnership, corporation, government or other legal or natural entity engaged in any development activity including, but not limited to, any owner, lessee, agent, employee, contractor or subcontractor.

Development means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into two or more parcels. The following activities or uses shall be taken for the purposes of this act to involve "development":

1. A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.
2. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.
3. Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal,

including any "coastal construction" as defined in 161.021, Florida Statutes.

4. Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.
5. Demolition of a structure.
6. Clearing of land as an adjunct of construction.
7. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

"Development," as designated in an ordinance, rule or development permit, includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this section.

The following operations or uses shall not be taken for the purpose of this act to involve "development":

1. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.
2. Work by any utility and other persons engaged in the distribution or transmission of gas or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks or the like.
3. Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.
4. The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.
5. The use of any land for the purpose of growing, plants, crops, trees, and other agricultural or forestry products; raising livestock, or for other agricultural purposes.
6. A change in the ownership or form of ownership of any parcel or structure.
7. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land.

Development agreement means an enforceable development agreement may include, but is not limited to, development agreements created pursuant to § 163.3220, Florida

Statutes, or an agreement or development order issued pursuant to Ch. 380, Florida Statutes. For purposes of this article, an enforceable development agreement must include the provisions of Rules 9J-5.0055(2)(a) 1-3 of the Florida Administrative Code.

Development order means an order granting, denying, or granting with conditions an application for approval of a development project or activity. A distinction is made between development order, which encompasses all orders and permits, and two distinct types of development orders: final development order and development permit.

Development permit means a development permit is that official city document which authorizes the commencement of construction or land alteration without need for further application and approval. Development permits include: all types of construction permits (plumbing, electrical, foundation, mechanical, and so forth, in addition to the building permit itself), grading and clearing permits, septic tank permits, Tree Removal Permits, sign permits, etc.

Development plan means the plan required by article 12 of this chapter, which shows all site conditions, proposed site improvements and the means by which the developer will conform to the requirements of this section.

Diameter at breast height (DBH) means the trunk diameter in inches of a tree measured four and one-half feet above the average ground level at the base of the tree. In the case of a tree with multiple trunks, the diameter shall be the diameters of the individual trunks.

Direct broadcast satellite means satellite television broadcasts intended for home reception directly by home viewers from cable television distribution services sometimes carried on the same satellite and received by a dish antenna of one (1) meter or less in diameter.

Discharge means the outflow of water from a project, site aquifer, drainage basin or facility.

District means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, objects, or areas, which are united historically or aesthetically by plan or physical development. A district may be comprised of individual resources, which are separated geographically but are linked by association or history.

Double frontage lot means a lot of the same depth as the width of a block containing two tiers of lots and which is accessible from both of the streets upon which it fronts.

Dormitory means a residence hall consisting of sleeping quarters either in a series of shared multi bedroom units with joint common space or entire buildings primarily providing sleeping and residential quarters for large numbers of students at academic institutions.

Downtown Support District means parcels not included in the Historic Design District that are not zoned residential between Plymouth Avenue and Beresford Avenue and between Hill Avenue and Spring Garden Avenue.

Drainage system means surface streams or swamps that convey water to natural points of discharge.

Dredging means excavation by any means in any water body or wetland. Excavation or creation of a water body which is, or is to be, connected to waters, directly or via excavated water bodies or a series of excavated water bodies.

Drip line means the ground area surrounding the trunk of a tree that is described by the vertical plane enclosing the outermost branches of the tree. For asymmetrical specimens or those with unusually small crown spread, the drip line area shall in no case be less than that area described by a radial dimension of one foot for each one inch of trunk radius.

Dry cleaning and laundry, industrial means an establishment for bulk cleaning and dyeing of uniforms, garments, bedding, fabric, hats and rugs and similar non-individually and/or singularly tendered items where no public access retail outlet is available.

Dry cleaning and laundry retail mean an establishment undertaking the cleaning of individually owned or singularly tendered items.

Dwelling means a building or portion thereof designed exclusively for residential occupancy with independent cooking and bathroom facilities using the following building materials for exterior walls:

1. *Block*. Decorative concrete masonry unit ("CMU"), split-face, ribbed, glazed and unglazed;
2. *Brick*. Veneer or panels, glazed or unglazed;
3. *Concrete*. PIP architectural finished, precast panels, exposed aggregate;
4. *Glass*. Vision or spandrel, glass block;
5. *Log structures*. Log cabins;
6. *Metal*. Roofing, fascia, soffits, architectural/ornamental metals (brass, copper, wrought iron, aluminum, steel, stainless steel, etc.);
7. *Siding and panels*. Aluminum, wood, Hardie board, vinyl, fiberglass, (other composite material);
8. *Screen*. Synthetic, metal;
9. *Stone*. Cast stone, manufactured stone, natural;
10. *Stucco*. Plaster, including synthetic E.F.I.S., tabby;
11. *Synthetic materials*. Plastic wood, acrylic, fiberglass polyethylene, vinyl, etc.;

12. *Tile.* Porcelain, ceramic, quarry, concrete, glazed or unglazed;

13. *Wood.* Siding, shakes, decorative plywood panels (T1-11, board and batten); or any other materials which the planning director determines to be substantially similar to those materials listed herein.

A dwelling includes one-, two- and multiple-family dwellings, including manufactured and mobile homes, but not including hotels, boarding, lodging houses or recreational vehicles whether such vehicles are mobile or stationary as when on blocks or other type of foundation. The following structure types shall not be included in the definition of a dwelling: unique specialty structures such as Quonset huts, geodesic domes, etc.; industrial and utility structures such as storage tanks, silos, towers, etc.; exaggerated imitative structures such as ones that resemble an animal, seashell, musical instrument, lighthouse, windmill, teepee, igloo, etc.

Dwelling, multiple-family means a building designed for or occupied exclusively by three or more families living independently of each other with independent cooking and bathroom facilities.

Dwelling, single-family means a building designed for or occupied exclusively by one-family with independent cooking and bathroom facilities.

Dwelling, two-family means a building designed for or occupied exclusively by two families living independently of each other with independent cooking and bathroom facilities. A two-family dwelling may be subdivided for independent ownership of each dwelling unit when all other dimensional and subdivision requirements of these regulations are met.

Easement means a grant by the property owner for use, by the public, a political subdivision of the state, a corporation, or person(s), of a strip land for public utilities or other specified purposes.

Electric sign means any sign containing electric wiring.

Electronic message center means a sign that utilizes a computer generated message or some other electronic means of changing copy including displays using incandescent lamps, light emitting diodes, liquid crystal displays, changeable copy panels or synchronized rotating copy panels.

Encroachment means any protrusion of a vehicle outside of a parking space, display area or access-way into a landscaped area, wall or walkway.

Erect a sign means to construct, reconstruct, build, relocate, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it shall not include any of the foregoing activities when performed as an incident to the change of letters or numbers on a message center sign, or routine maintenance to a conforming sign.

Excavation means the removal and transport of earth materials. The term excavation as used in this section does not include the removal and transport of earth materials

associated with the construction of storm water management facilities, sod, fern and tree farming activities.

Existing means the average condition immediately before a legal act of development or redevelopment commences.

Exterior building component means an essential and visible part of the exterior of a building.

Exterior modification means any change to the outside appearance of a building.

External design feature means the general arrangement of any portion of a building, sign, landscaping, or structure and including the kind, color, and texture of the materials of such portion and the types of roof, windows, doors, lights, attached or ground signs or other fixtures appurtenant to such portions as will be open to public view from any street, place, or way.

FAA means the Federal Aviation Authority.

Facility means a building, room or other device that facilitates or makes possible, some activity.

Family means 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 three-month period:

1. A natural family of one or more persons who are all related to each other by law, blood, marriage or adoption.
2. Six or fewer persons living together in a facility which is licensed by the Department of Children and Family Services in accordance with § 419.001(2), Florida Statutes, or registered under § 409.176, Florida Statutes, or a substantially equivalent statute.
3. A maximum of two unrelated persons, together with their natural family who are related to each other by law, blood, marriage or adoption.

Family day care home. A family day care home shall have the same meaning as defined in § 402.302, Florida Statutes, which may be amended from time to time.

FCC means the Federal Communications Commission.

Fence means a barrier, railing, or other upright structure, typically of wood, metal, vinyl, concrete or masonry enclosing an area of ground to mark a boundary or control access.

Fill means depositing of any materials by any means in any water body, wetland, depression or on the land surface.

Final development order means the final authorization of a development project; the authorization which must be granted prior to issuance of a development permit as defined

for purposes of this section. (The final development order authorizes the project, whereas the development permit authorizes specific components of the project, such as building construction, parking lot installation, landscaping, and the like). For purposes of this section the final development plan approval is the final development order.

Flat roof means a roof having no slope or one with only a slight pitch so as to drain rainwater.

Flood or flooding means a temporary partial or complete inundation of normally dry land from the overflow of inland or tidal waters, or from the unusual and rapid accumulation of runoff or surface waters from any source.

Flood hazard boundary map (FHBM) means the map issued by the Federal Emergency Management Agency showing floodprone areas. Drawn from United States Geological Survey maps, it does not provide flood elevations and is intended to be used only until the flood insurance rate map (FIRM) is produced.

Flood insurance rate map (FIRM) means the official map issued by the Federal Emergency Management Agency showing both the area of special flood hazard and the risk premium zones within the city.

Floodplain means land which will be inundated by floods known to have occurred or reasonably characteristic of what can be expected to occur from the overflow of inland or tidal waters and the accumulation of runoff of surface waters from rainfall.

Flood protection elevation means the elevation of the Base Flood plus one foot.

Floodway means the channel of a natural stream or river and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river.

FLUCCS means the Florida Land Use, Cover, and Forms Classification System, published by the Florida Department of Transportation.

Food Product within the M-1 Zoning District means products such as candy, chewing gum, chocolate, cocoa, and related products, coffee, tea and spice, condensed and evaporated milk, ice manufacturing, meat and food products (no slaughtering, canning or rendering).

Frontage means the length of the property line of any one parcel along a street on which it borders.

Garden apartment means a low-rise (usually not more than a maximum of two and one-half stories or 35 feet with two levels of dwelling units) multifamily dwelling with access from a common hall with a maximum length no greater than 200 feet.

Golf cart means a four-wheeled motor vehicle meeting the definition of a Low Speed Vehicle.

Governmental and public building means a premise or building occupied by a public

body, board, commission, or authority, such as a municipal, state, or federal government, or any agency or department thereof for a governmental purpose.

Governing authority means the governing authority of the city/county.

Greenhouse means a building made of glass, plastic, or fiberglass in which plants are cultivated.

Green roof and Green wall means an engineered system intended to reduce stormwater runoff and energy costs by supporting plants and typically consisting of a drainage layer, a geotextile root barrier and a lightweight soil mix often low in organic content. The plants chosen for green roofs are usually drought-tolerant varieties such as sedums, so established green roofs will not need irrigation. Green roofs are not accessible except for maintenance.

Ground sign means a sign that is supported by one or more columns, upright poles, or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building. Monument signs are considered ground signs.

Groundwater means water beneath the surface of the ground whether or not flowing through known and definite channels.

Group development means a complex comprising two or more buildings such as a group of apartments, a waterfront development, or a planned industrial park when the land is not subdivided in the customary manner.

Habitat means the place or type of site where a species naturally or normally nests, feeds, resides, or migrates, including for example, characteristic topography, soils, and vegetative cover.

Harmful to minors means, with regard to sign content, any description or representation, in whatever form, of nudity, sexual conduct, or sexual excitement, when it: predominately appeals to the prurient, shameful, or morbid interest of minors in sex, and is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable sexual material for minors, and taken as a whole, lacks serious literary, artistic, political, or scientific value. The term "harmful to minors" shall also include any nonerotic word or picture when it: is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable for viewing by minors, and taken as a whole, lacks serious literary, artistic, political, or scientific value.

Hazardous substances means hazardous substances listed in chapter 38F-41 of the Florida Administrative Code, sections 2261 and 302.4 of title 40 of the Code of Federal Regulations, and part 355 appendix A and B of title 50 of the Code of Federal Regulations. A hazardous substance, as defined herein, includes any solution, mixture, or formulation containing such materials, and also includes any material which, due to its chemical or physical characteristics, as determined by the director upon the advice of the Volusia County Environmental Management Director (EMD) which poses a substantial

threat to the life, health, or safety of persons or property or to the environment.

Health care vehicle, permanent means a facility, designed to be towed or which moves under its own power, containing a diagnostic radiological medical use that is parked or located at a specific location and which is designed and proposed to be used as an ancillary or supportive use of the primary use of the property.

Health care vehicle, temporary means a licensed vehicle, designed to be towed or which moves under its own power, containing a diagnostic radiological medical use that is parked or located on a specific property, on an intermittent basis.

Health department and *health officer* mean the Volusia County Health Department and the chief of engineering services of the health department.

Height shall mean, when referring to a communication tower or other structure, the distance measured from the ground level to the highest point on the communication tower or other structure, even if said highest point is an antenna.

Highest adjacent grade means the highest natural elevation of the ground surface adjacent to the proposed walls of a structure.

Highway architecture, corporate signature architecture, commercial prototype architecture means that buildings, which by the use of disharmonious forms, materials, and/or colors, are designed to command the attention of passing traffic, rather than relating to the existing natural or architectural environment; or a corporate prototype building that is designed to inhabit any climate or site without having to adjust to circumstances thereby creating the same building everywhere.

Historic Design District means combined historic areas of Stetson University and downtown as defined in the City of DeLand's Comprehensive Plan Future Land Use Element.

Historic property means any prehistoric or Historic District, site, building, object or other real or personal property, of historical, architectural or archaeological value. These properties or resources may include, but are not limited to, monuments, memorials, Native American habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure troves, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, or culture of the City of DeLand.

Home improvement store means a 40,000 square feet or larger retail facility; the primary focus of which is to offer a variety of merchandise for home or land improvement including but not limited to building materials and supplies, appliances, plants, gardening supplies, farm supplies and home furnishings.

Home occupation means any occupation conducted entirely within a dwelling unit or accessory unit.

Hoophouse means an apparatus made of polyvinyl chloride (PVC) piping or other material covered with translucent plastic, constructed in a half-round or hoop shape, used for growing and protecting plants.

Hotel means a building, group of buildings, or other structure kept, used, maintained or advertised under the same management as a place where sleeping accommodations for more than 16 persons or more than eight rooms are supplied for pay to transient guests or tenants, with or without meals. Dining rooms, restaurants or cafes, are considered accessory uses in connection therewith.

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

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

Illuminated sign means a sign which contains a source of light or which is designed or arranged to reflect light from an artificial source including indirect lighting, neon, incandescent lights, back-lighting, and shall also include signs with reflectors that depend upon automobile headlights for an image.

Impervious area means an area covered by a material which does not permit infiltration or percolation of water.

Invasive species means any tree species defined as a "Category 1" pest by the Florida Exotic Pest Plant Council (EPPC), or listed as an invasive plant by the Institute of Food and Agricultural Sciences (IFAS), University of Florida or described in the list appearing in Article VI, Section 33-57.06.

Isolated wetland means any wetland that has no hydrological or vegetative connections with any water of the state as defined in Ch. 403.031(3), Florida Statutes.

Land means the earth, water and air above, below or on the surface, and including any vegetation, improvements or structures customarily regarded as land.

Land development regulations means legislation enacted by the city for the regulation of any aspect of development and includes any city zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.

Landfill means an area raised in elevation, increased in dimension, or both, by the placement of additional soil materials, whether obtained from underwater sources or brought in from some distant location.

Landscaping shall consist of, but not be limited to, any of the following or combination thereof: Lawn grasses, ground covers, shrubs, vines, hedges, trees and nonliving durable materials commonly used in landscaping such as, but not limited to, rocks, pebbles, white sand or pine bark mulching, but excluding paving.

Laundry, self-service means a business rendering a retail service by renting to the

individual customer equipment for the washing, drying and processing of laundry, with equipment to be serviced and supervised by the management.

Laws means all ordinances, resolutions, regulations, Comprehensive Plans, Land Development Regulations, and rules adopted by the city affecting the development of land.

Level of service (LOS) means an indicator of the extent or degree of service provided by or proposed to be provided by a public facility based on and related to the operational characteristics of the public facility.

Light industrial (assembly) means land uses which involve the manufacture or construction of a finished product from one or more components, which may require cutting or forming to specific dimensions or size, e.g., the manufacture of playground equipment from lumber and/or pipes which must be cut to specific sizes.

Loading zone means part of the vehicle use area which shall be designated for the loading and unloading of vehicles, per Section 33-91.03.

Local street means a street used primarily for access to abutting properties and the needs of a neighborhood.

Lot means an area of land which abuts and which either complies with or is exempt from the city's subdivision regulations, and is sufficient in size to meet the minimum area and width requirements of its zoning district; and a portion of a subdivision or any other tract or parcel of land, unless the airspace is authorized to be sold separately from the land pursuant to chapter 718, Florida Statutes (the Condominium Act), intended as a unit for transfer of ownership or for development or both. The words "lot" includes the words "plot" "tract" or "parcel."

Lowest floor means the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or 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 non-elevation design requirements of section 60.3 of 44 CFR.

Low intensity agriculture means an accessory use to single-family dwellings. The uses in this category are limited to the raising of crops, citrus, or ferns; and the keeping of livestock, including aviaries, pisciculture, and apiaries.

Low Speed Vehicle (LSV) means any four wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles conforming to the safety standards in 49 C.F.R. Section 571.500 and Florida Statute 316.2122.

Mansard roof means a roof having two slopes on all sides with the lower slope steeper than the upper one.

Management means a series of techniques applied to maintain the viability of species in a

location. These techniques include, but are not limited to, controlled burning, planting or removal of vegetation, exotic species control, maintaining hydrologic regimes, and monitoring.

Management plan means a plan prepared to address conservation and management of listed species and their habitat, which is approved by the director, following recommendations from the game commission.

Manufactured modular home means a structure or building module as defined by statute and under the jurisdiction and control of the Florida Department of Community Affairs, installed and used as a residence, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The structure contains plumbing, heating, air conditioning, and an electrical system. The term does not include a mobile home.

Manufacturing means establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors to create goods such as agricultural or farm implements, aircraft or aircraft parts, aluminum extrusion or rolling, baskets and hampers, beddings, bolts, nuts, screws and rivets, boxes and crates, buttons, carpets and rugs, cement mixing plants, block, culvert and concrete pipe, cigars and cigarettes, containers, cosmetics and toiletries, electrical components, feed and seed processing and storage, fertilizer storage, firearms, fur finishing, furniture, gas or steam fitting shops, heating, air conditioning, ventilation, stove, refrigerator manufacturing, hosiery mills, pesticides, disinfectants and related industrial/household chemical compounds, blending only, iron, metal ornamental, knitting, weaving, printing finishing of textiles and fibers into fabric goods, leather goods manufacturers not including tanning operations, machine shop, sheet metal working shop, mining and excavations, moving and storage companies, nails, tacks, spikes and staples, parachute, sail and related items, perfumes and perfumed soaps, compounding only, plastic products, plating, electrolytic processing, safe and vault manufacture, sheet metal products, silverware and flat ware, tire, retreading, recapping and vulcanizing shops, tool, die and gauge shops, trailer carriage and wagon, transport of hazardous waste compliant with Section 33-19.12, wholesale houses and distributors, yards of general contractors engaged in building or heavy construction and yarn, thread and cordage manufacturers.

Marginal access means a minor street which parallels and is adjacent to an arterial street or highway, and which provides access to abutting properties and protection from through traffic.

Market garden means an area of land managed and maintained by an individual or group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, to be sold for profit.

Marquee means a structure projecting from and supported by a building, which extends beyond the building line or property line and fully or partially, covers a sidewalk, public

entrance or other pedestrian way.

Mass means the visible volume or size of a building element or structure.

Message center means a permitted permanent accessory sign complying with the requirements of Section 33-75, except that it shall use a maximum of 30-watt reflectorized incandescent bulbs (with a tamper-proof dimming device) to provide for individually changeable letters and numbers and shall be limited to one such sign per parcel, includes building signs. Message center will be included as part of the overall allowable sign copy area.

Mini park means a specialized public play lot or a quiet landscaped area of two acres or less.

Mining operation means all aspects of the proposed mining scheme, including the plant, processing areas and total land area for which the applicant is applying for a permit.

Mining unit means a specified area of land from which minerals are extracted in a specified period of time.

Minor arterial means a major, high-capacity street designed primarily to carry large volumes of inter city traffic, and designated on the city thoroughfare plan in the City of DeLand Comprehensive Plan.

Mitigation means any action including, but not limited to, restoration, enhancement, or creation of wetlands, required to be taken in order to offset environmental impacts of permitted activities.

Mitigation park means an area acquired with the expressed purpose of mitigating impacts of land development on listed species.

Mobile home means a structure, transportable in one or more sections, which is eight body feet or more in width and which is built on a integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

Mobile home lot means an improved area within an approved mobile home park designated for placement of a single mobile home for the exclusive use of the occupants.

Mobile home park means any tracts of land under single ownership which two or more mobile home lots are occupied or intended for occupancy on a rental or lease basis. No mobile home park shall be permitted to be constructed or operated on less than ten acres of land, excluding land subject to flooding, swamps, or land topographically unsuitable for development.

Monument sign means a freestanding sign that has a base at least as wide as the width of the sign placed upon or supported by structures or supports in or upon the ground and independent of support from any building.

Motel, tourist court, motor lodge means a group of attached or detached buildings with individual sleeping units, with automobile storage or parking space provided in connection therewith, designed for use by automobile transients.

Multiple-tenant complex means a commercial use, i.e., any use other than residential or agricultural, consisting of a parcel of property, or parcel of contiguous properties, existing as a unified or coordinated project, with a building or buildings housing more than one occupant.

Multiple vision billboard means a permanent outdoor advertising sign which utilizes mechanical or any other means to provide for changeable sign copy. Such signs are prohibited.

Multi-Tenant sign means sign designed with two or more panels to exhibit two or more commercial, office or industrial tenants under a common land ownership with a united name.

Multi Use Trail means a shared use path designed for both transportation and recreation for use by more than one user group which is typically separated from motorized vehicular traffic by an open space or barrier, either within a right-of-way or within an independent right-of way, and is constructed in compliance with Chapter 8 of the current Florida Department of Transportation Plans Preparation Manual

Necessary public facilities means public facilities required to be maintained at a Level of Service (LOS) established in the City of DeLand Comprehensive Plan.

Neighborhood park means a public park of 20 acres or less with active and sometimes passive elements designed to serve a specific neighborhood.

New construction means structures or substantial improvements for which the "start of construction" occurred on or after the effective date of this section, and any alteration, repair, reconstruction or improvements to a structure which is in compliance with these flood damage prevention regulations.

Nonconforming use means the presence on a lot of a use not permitted on said lot by this Code. The presence on a lot of more dwelling units than this development code permits shall be deemed a nonconforming use. Existing active uses not meeting the allowed use criteria of the site's zoning district, but maintaining an active business tax receipt issued by the city, or issued by the city upon annexation, may continue so long as the use is compliant with the regulations governing such use. However, should either the use become dormant or the business tax receipt lapse for one year then the use shall be terminated and shall not thereafter be reestablished.

Nonconformities, building and structure means a building which does not meet the city's requirements as to:

- Minimum building or structure setback;
- Minimum building dimensions;
- Minimum lot dimensions;

Minimum landscape buffer requirements;
Maximum lot coverage or impervious area;
Maximum height for structures; or other similar building or structural requirements or limitations.

Nonconformities, parking, loading, landscaping, and other means improvements that do not meet with such city requirements as [to]:

Required number or size of parking spaces;
Required number or size of loading dock spaces;
Required dumpster location or screening;
Required stacking spaces for drive-in services;
Required access and maneuvering area in vehicular areas;
Required landscaping and screening;
Required sidewalk and pedestrian circulation;
Limitations on amount and area of signs; or Other similar site improvement requirements or limitations.

Nonvehicular ingress and egress easement means an easement entitling the holder of the easement to control access across the easement by motor vehicles.

Nursing (convalescent) home/adult congregate living facility means a home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Object means a material thing of functional, archeological, aesthetic, cultural, historical, or scientific value that may be by nature of design, movable, yet related to a specific setting or environment.

Official map or plans means any map or plan officially adopted by the city commission as a guide for the development of the city and surrounding territory.

Ordinary maintenance means work which does not require a construction permit and that is done to repair damage or to prevent deterioration or decay of a building or structure or part thereof as nearly as practicable to its condition prior to the damage, deterioration, or decay.

Organized physical activity means generally scheduled physical instruction taking place at a gym, dance studio, martial arts studio or a similar facility.

Original appearance means that appearance which, to the satisfaction of the planning director, closely resembles the appearance of either (1) the feature on the building as it was originally built or was likely to have been built, or (2) the feature on the building as it presently exists so long as the present appearance is appropriate, in the opinion of the planning director, to the style and materials of the building.

Outdoor advertising sign (billboard) means a permanent ground sign that may be allowed by these regulations, but may not be in addition to permanent accessory signs allowed on

a parcel, for the purpose of conducting the business of outdoor advertising. Outdoor advertising signs are considered a primary use.

Outdoor recreational land use means, generally, any use of property for a permanent or long-term recreational purpose (having a commercial lease of 31 days or more), the conduct of which occurs totally or substantially outside of any enclosed structure. Not-for-profit recreational organizations, such as those permitted in Section 33-17.17(b)(74), shall not be deemed to be outdoor recreational land uses. Carnivals, circuses and other temporary amusements, such as those permitted in Section 33-17.17(c)(113), shall not be deemed to be outdoor recreational land uses. Municipal or government parks, sports and/or recreational facilities shall not be deemed to be outdoor recreational land uses.

Overburden means all earth materials overlying a subsurface mineral resource deposit, including but not limited to topsoil, sand, clay, or limestone.

Parcel means a unit of land within legally established property lines. If, however, the property lines are such as to defeat the purposes of this article or lead to absurd results, a "parcel" may be as designated for a particular site by the planning director.

Parking facility means part of the vehicle use area which is designed for the temporary parking of automobiles and light duty trucks and vans.

Parking lot means an area or plot of land used for the storage or parking of vehicles.

Permanent means designed, constructed and intended for more than short-term use.

Permanent health care vehicle means a facility, designed to be towed or which moves under its own power, containing a diagnostic radiological medical land use that is parked or located at a specific location and which is designed and proposed to be used as an ancillary or supportive use of the primary use of the property.

Person means any individual, firm, association, organization, partnership, joint venture, trust, company, corporation, receiver, syndicate, business trust or other group or combination acting as a unit, including any government.

Planning board means the City of DeLand planning board.

Plant means the physical structure and equipment housed therein utilized in the processing, collection, storage and transportation of mined products.

Pollutant means any substance, contaminant, noise, or manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Portable sign means any sign which is manifestly designed to be transported by trailer or on its own wheels, including such signs even though the wheels may be removed and the remaining chassis or support structure converted to an A or T frame sign and attached temporarily or permanently to the ground.

Pre-existing communication towers and antennas means all communication towers existing on the effective date of June 16, 1997.

Preliminary concurrency determination means a determination made by the planning department at the request of any person stating whether there appears to be sufficient public facilities capacity for the applicant's development proposal. The Preliminary Concurrency Determination reserves no public facility capacity and is in no way binding on the city.

Primary protection zone means all land within a 200-foot radius of an existing or designated protected wellhead.

Principal arterial means a major, high-capacity street designed primarily to carry large volumes of cross-state traffic, and designated on the city thoroughfare plan in the City of DeLand Comprehensive Plan.

Private park means a tract of land owned by a private organization, other than a homeowner's association, to be utilized for active or passive recreational activities that may include the construction of structures.

Private street means a vehicular right-of-way located in a planned unit development, group housing or cluster development which street is approved by the city commission for vehicular use and that has not been dedicated to and accepted by the city commission for maintenance. The term "private street" shall include the term "approved private street."

Professional engineer means an engineer currently registered to practice in the State of Florida.

Professional office means office housing professional services such as abstractors, accountants, bookkeeping and business services, general and professional offices, architectural, engineering, surveying, legal and other professional services, investment, insurance, finance and bank offices, offices and studios for financial services such as credit bureaus, appraisers, advisors, insurance, brokers and real estate, offices, art and photography studios, data processing, employee training, advertising and duplication, medical and dental offices less than 5,000 square feet government offices and travel agencies.

Project means the particular structures and improvements proposed by the applicant on a particular land area which are part of a common plan of development, including any subdivision of land.

Protected tree means any historic or specimen tree and any other tree that has a Diameter Breast Height (DBH) of six inches or greater, and which is not otherwise exempted from this section. In addition, all palms needed to meet minimum standards and with at least four and one-half feet of clear trunk between the ground level and the lowest branch are declared to be protected trees. Replacement trees are considered protected trees once they are installed.

Protected wellhead means those wellheads listed in Table I and mapped in Figure 2 of the City of DeLand Comprehensive Plan Potable Water Subelement.

Public facilities means major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational parks and recreational, and health systems and facilities.

Public street means a vehicular right-of-way that has been dedicated to and accepted by the city commission for maintenance.

Rate means the volume per unit of time.

Recharge means the inflow of water into a project, site aquifer, drainage basin or facility.

Reclamation means the filling, backfilling, restructuring, reshaping and/or revegetating within and around a land excavation or mining area to a safe and aesthetic condition.

Reclamation plan means a plan submitted by the applicant for a permit pursuant to the requirements of this section which sets forth a procedure for the reclamation of the lands affected by the proposed excavation or mining.

Recreational vehicle park means a development under single ownership divided into lots or spaces designed specifically to allow temporary living accommodations for recreation, camping, or travel use.

Recreational vehicles means any wheeled vehicle, whether self-propelled or not, used for recreational purposes. This shall include, but not be limited to, self-propelled recreational vehicles, recreational shelters, boats, boat trailers, and trail craft.

Recycling center means a facility designed for the collection and temporary storage of newsprint, glass, plastic, aluminum cans, and/or similar recycling materials.

Regional park means a public park of a larger scope, size or magnitude than a public community park.

Registered surveyor means a surveyor currently registered to practice surveying in the State of Florida.

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be unobstructed in order to discharge the Base Flood without increasing the water surface elevation of that flood more than one foot at any point.

Replacement tree means any tree on the city's approved tree list contained in the document entitled "List of Permitted Shrubs and Trees for Landscaping and Tree Protection" as listed in section 33-57 and having a single trunk of at least two inches DBH and three inches caliper, or multi-stem trunk system with a well developed crown at least eight feet high as measured from its base.

Restaurant means any building or business providing meals to customers, which derives at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages,

per Florida Statute 561. Any establishments holding a valid sanitary permit from the Department of Business and Professional Regulation selling food and service to its customers.

Retail means business engaged in the retail sale of goods such as art, antique, gift china, glassware, jewelry and luggage shop, book and stationary stores, newsstands, coffee, tea and spice, florist shops - products displayed and sold wholly within the building, hardware, bicycle, sporting goods, hobby shops and locksmiths, men's, woman's and children's clothing and accessories, photographic supplies, studios, art supplies and music shops, sundries, tobacco, confectionary and candy shops, electronics sales and service

Roof garden means a garden on a roof where the growing medium is deep, greater than eight inches and contained in pots, planters or elevated solid wall beds, and the vegetation ranges from kitchen herbs to lawns and flowers to shrubs-and small trees. A roof garden is often park-like and accessible and may or may not utilize green roof components.

Roof line means a horizontal line intersecting the lowest eave line of a roof with the exception of a mansard roof.

Roof sign means a sign placed above the roofline of a building or on or against a roof slope of less than 45 degrees.

Sandwich board signs means any sign consisting of two faces that are joined together and is free of structure or support and not secured to the ground. May also include signs commonly referred to as metal "T" signs.

Secondary arterial means a major, high-capacity street designed to carry large volumes of through traffic between regional urban areas, and designated on the city thoroughfare plan in the City of DeLand Comprehensive Plan.

Secondary protection zone means all land within a 1,000-foot radius of an existing or designated protected wellhead.

Shade structure means an engineered membrane tension accessory structure permanently attached to the ground.

Shrub means a self-supporting woody, deciduous or evergreen, perennial and/or flowering species characterized by multiple stems and branches arising from a main root.

Sidewalk means that portion of a street, right-of-way, crosswalk, or private property, paved or otherwise surfaced intended for pedestrian and/or bicycle use.

Sign means any writing, pictorial presentation, number, illustration, or decoration, flag, banner or pennant, or other device which is used to announce, direct attention to, identify, advertise or otherwise make anything known. The term sign shall not be deemed to include the terms "building" or "landscaping," or any architectural embellishment of a building not intended to communicate information.

Sign base means that portion of a monument sign that is used to support the sign face. The sign base may not contain any copy, but may contain the address number (not to

exceed four inches in height) for the place of business of which the sign is an accessory to.

Sign face means the part of a sign that is or may be used for copy. Raised letters, numbers, or objects on the sign face shall not exceed one inch of depth.

Sign face area means the area of any regular geometric shape which contains the entire surface area of a sign upon which copy may be placed.

Sign structure means any construction used or designed to support a sign.

Significant adverse effect means any modification, alteration, or effect upon a wetland protection or wetland transitional zone, which measurably reduces the area's beneficial functions as, delineated in the conservation element of the City of DeLand Comprehensive Plan.

Single tier lot means a lot which backs upon a limited access highway, a physical barrier such as a waterway, or railroad, or a nonresidential use and to which vehicular access from the rear is usually prohibited.

Site, archeological means a site that contains prehistoric or historic artifacts, relics, or structures which represent a particular culture, historic event or epoch and which are of local, regional or statewide significance.

Site, historic means the location of a significant event, a prehistoric or historic occupation or activity, or building, or structure, whether standing, ruined, or vanished, where the location itself maintains a historical or archeological value regardless of the value of any existing structures.

Site plan means the plan required to acquire a development, construction, building or stormwater permit which shows the means by which the developer will conform with applicable provisions of this section and other ordinances.

Special exception means a use allowed in a particular zoning district only upon demonstration to, and at the discretion of, the city commission that such use in a specific location will comply with the conditions and standards for the location or operation of such use as specified.

Sponsoring agency means an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

Start of construction means the date the construction permit was issued, provided the "actual start of construction" was within 180 days of the permit date. The "actual start of construction" means the first placement of permanent elements of a structure 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 of the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement,

footings, piers or foundations; erection of temporary forms; or the installation of appurtenant structures.

State land planning agency means the Florida Department of Economic Opportunity.

Street means a public or private vehicular right-of-way which affords a primary means of access to abutting properties, whether designated as a street, avenue, highway, road or however otherwise designated, but excepting driveways to other buildings. The term "street" shall include all road designations shown on the thoroughfare plan in City of DeLand Comprehensive Plan.

Structure, means that which is built or constructed.

Structure, permanent means anything constructed, installed, or erected which is part of the ground, attached to the ground, or attached to another structure which has size or other characteristics which restrict mobility. Such structures shall include, but not limited to: Earth; Buildings; Signs of all types except portable signs; Fences; Mechanical equipment; Utility equipment; or Paving.

Structure, temporary means a building or structure not intended to remain in place for a period of more than 14 days.

Subdivider means any person, firm, partnership, association, corporation, estate, or trust, or any other group or connotation acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as herein defined, including any agent of a developer.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose, whether immediate or future, of sales or other transfer of ownership or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets. "Subdivision" includes a resubdivision or replatting.

Subdivision plat, final means the detailed drawing and supporting data representing a land survey of lots, blocks, and streets and the location and specifications for streets, utilities and other improvements.

Subdivision plat, preliminary means a drawing and other supporting data of a proposed subdivision developed for the purpose of establishing the general layout and specifications for streets, utilities, and other improvements.

Subdivision sketch plan means a drawing not necessarily to scale which shows a conceptual layout of the proposed subdivision.

Substantial damage means 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 structure before the damaged occurred.

Substantial improvement means any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place during the life of a structure, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The

market value of the structure is the appraised value of the structure prior to the start of the initial repair or improvement, or, in the case of damage, the value of the structure prior to the occurrence of the damage. For the purposes of this definition, "substantial improvement" occurs when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any improvement of a structure to comply with existing health, sanitary, or safety codes, or any alteration of a structure listed on the National Register of Historic Places, the Local Register of Historic Places, or a state inventory of historic places, unless that alteration will cause the structure to lose its historical designation.

Tattooing means the act of impregnating the skin with pigment(s) and/or producing scars upon the human body for the purpose of ornamentation, including the application of permanent makeup. The definition of tattooing shall not include the topical application to the skin of pigments, pictures or other representations.

Tattoo parlors and related land uses means those businesses and establishments engaged in the act of tattooing, as defined in (269) above.

Temporary means designed, constructed, and intended to be used on a short term basis.

Temporary communication tower. Also know as "cellular on wheels" (COWs), temporary communication towers shall mean mobile wireless communication towers operated temporarily in conjunction with a recognized special event and/or emergency situation.

Temporary health care vehicle means a licensed vehicle, designed to be towed or which moves under its own power, containing a diagnostic radiological medical land use that is parked or located on a specific property, on an intermittent basis.

Temporary parking and storage of vehicles means the parking, storage and/or impoundment of vehicles, where such vehicles are left in place for periods of less than seven consecutive days.

Temporary storage container means a roll off container or similar receptacle placed for the temporary storage of non-regulated materials to facilitate activities such as interior remodeling, packing for moving or similar activity such that the temporary container will be staged on-site for less than two weeks.

Temporary subdivision sales office means a temporary subdivision sales office is a short term office commercial land use permitted in a residential area for the purpose of selling lots and/or new residential structures located in the residential development of the temporary sales office. A temporary sales office is not a general real estate office, which may offer land or existing and new structures for sale in areas outside of the development in which the office is located. Office complies with Section 33-21

Tent means a temporary structure, the covering of which is made of pliable material or fabric, such as canvas or nylon and stretched and sustained by poles.

Thoroughfare Design District means parcels not included in the Historic Design or

Downtown Support Districts that front on arterials or collectors identified in the Comprehensive Plan.

To plat means to divide or subdivide lands into lots, blocks, parcels, tracts, sites, or other divisions however the same may be designated and the recording of the plat in the office of the Clerk of the Circuit Court of Volusia County. The term "plat" shall include "replat".

Trades Industrial means trades requiring large or specialized equipment , or using regulated materials requiring special handling or safety considerations such as black smith shops, building components manufacturing, contractor's shop, storage and equipment yards, exterminating establishments, retail/wholesale sale and storage of building materials, hardware, home improvement goods, machinery and tools/including storage and lumber yards, sign and paint shop,

Trades Shop means shops housing the operations of trade crafts persons such as tinsmith, cabinetmaker, rug and carpet cleaning, mattress, renovation, electrical, roofing and plumbing, Sign painting and service.

Tree means a woody self supporting perennial plant having a single stem or trunk, or a multi stem truck system with a well-developed crown, frequently growing to a considerable height and bearing lateral branches at some distance from the ground.

Tree, palm, means an evergreen, compound leafed tree belonging to the Palmaceae family.

Tree, understory, means a tree which normally grows well under larger trees.

Tree protection zone means a circular zone around each protected tree defined as follows:

1. *Protected trees.* For all protected trees, the zone shall be that area within a radius of the full drip line around the tree. The minimum size of a tree protection zone is ten feet from the trunk of the protected tree.
2. *Historic trees.* Unless the applicant proposes a method of root protection which is acceptable to the city, no construction activity shall take place within an area equal to one and one-half times the area of the drip line.

Tree survey means an aerial map, drawing or survey prepared to the same scale as the related development plan or preliminary subdivision plat, if required, which: provides the location, drip line, DBH, and common name of all trees measuring six inches or greater DBH located on the property or within ten feet of the property including rights-of-way; shows the location, exact number and common names of all protected trees to be removed, relocated or replanted on the property; and provides tabular data concerning the total DBH of protected trees to be removed from the property.

Truck stop means a premises where the principal use is the refueling, parking and servicing of trucks and trailers; provided, however, that major repairs shall not be permitted, including, but not limited to, rebuilding engines or transmissions.

Vehicle use area means that part of the site which is utilized by vehicles, including loading zones, parking spaces, driveways, areas utilized by vehicles of all types including boats and heavy equipment in the conduct of the business and areas utilized for the temporary parking and/or storage of vehicles. Vehicle use areas shall not include the driveways for one- and two-family residences, parking areas of nonresidential land uses utilized only for special events or intermittent activities such as tent sales, graduation ceremonies, sporting events which are accessory to the primary use of the subject property, and other similar uses.

Under-canopy sign means an accessory sign suspended beneath a canopy.

Unit means that part of a multiple-occupancy complex housing one occupant.

Utilities. Utilities include, but are not limited to, water systems, electrical power, natural gas distribution, sanitary sewer systems, storm drainage systems, telephone and television cable systems.

Vehicle sign means any sign affixed to a vehicle.

Volume means occupied space and is measured in cubic units.

Water means all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial water courses, lakes, ponds, or diffused surface water and water standing, percolating or flowing beneath the surface of the ground.

Water body means any natural or artificial pond, lake, reservoir or other area with a discernible shoreline which ordinarily or intermittently contains water.

Watercourse means any natural or artificial channel, ditch, canal, stream, river, creek, waterway or wetland through which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, banks, or other discernible boundary.

Water-dependent activities means activities which involve the use of water or which must be located adjacent to or in a body of water.

Water detention structure, water management structure means a facility which provides for storage of stormwater runoff and the controlled release of such runoff during and after a flood or storm.

Water retention structure means a facility which provides for storage of stormwater runoff.

Waterway means a channel, creek, ditch, drainage way, dry run, spring, stream, canal, but not a lake, pond, or pool without a water outlet.

Wetlands. Wetlands shall be determined as provided in Rule 373.019, Florida Administrative Code.

Wall means a continuous vertical structure that encloses or divides an area of land.

Window sign means erected inside or upon a window facing the outside and which is intended to be seen from the exterior.

33-12.01. *General applicability.* Except as specifically provided below, the provisions of this chapter shall apply to all development in the city, and no development shall be undertaken without prior authorization pursuant to this chapter.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02; Ord. No. 2003-20, § 1, 7-7-03; Ord. No. 2003-37, § 1, 7-7-03; Ord. No. 2004-39, § 1, 10-18-04; Ord. No. 2004-60, § 1, 12-20-04; Ord. No. 2004-61, § 1, 12-20-04; Ord. No. 2004-62, § 1, 12-20-04; Ord. No. 2007-12, § 1, 2-5-07; Ord. No. 2008-08, § 1, 4-7-08; Ord. No. 2008-39, § 1, 9-3-08)

Secs. 33-13—33-15. - Reserved for future use.