

ARTICLE III. - ACCESSORY USES AND STRUCTURES

Sec. 33-26. - Purpose.

Sec. 33-27. - Accessory uses.

Sec. 33-28. - Accessory structures.

Secs. 33-29, 33-30. - Reserved for future use.

Sec. 33-26. - Purpose.

It is the purpose of this article to regulate the installation, configuration, and use of accessory structures, and the conduct of accessory uses, in order to ensure that they are not harmful either aesthetically or physically to residents and surrounding areas.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-27. - Accessory uses.

33-27.01. *Home occupations.*

- (a) *No permit required.* A home occupation may be initiated and conducted without a development permit so long as the requirements in this section are adhered to.
- (b) *Where allowed.* Home occupations are allowed in all zoning districts, and in any structure used as a residence.
- (c) *Standards.*
 - 1. No persons other than members of the immediate family residing on the premises shall be engaged in the occupation.
 - 2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character thereof.
 - 3. There shall be no change in the outside appearance of the building or premises, with the exception of an unlighted name plate or sign that is not more than one square foot in area and that is attached to the building.
 - 4. No home occupations shall be conducted in any accessory building with the exception of a fully enclosed garage.
 - 5. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood.

6. No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
7. There is kept no stock in trade or commodity sold upon the premises, and no mechanical equipment used except such as is permissible for purely domestic or household purposes.
8. Home occupations shall be limited to the following activities:
 - a. Office, not to exceed 200 square feet.
 - b. Seamstress and tailor and related uses.
 - c. The giving of individual instruction, such as in art or piano, to one person at a time is deemed to be a home occupation.
 - d. The fabrication of articles commonly classified under the terms arts, woodworking and handicrafts may be deemed a home occupation, subject to the other terms and conditions of this definition, and providing no retail sales are made at the home.
9. A home occupation shall be subject to all applicable city occupational licenses and other business taxes.

33-27.02. *Dining rooms, recreation centers, and other amenities.*

- (a) *Generally.* Residential and nonresidential development projects may provide amenities for the exclusive use of the employees and/or residents of the project. Such amenities shall be allowed only as provided below.
- (b) *Dining rooms/cafeterias/snack shops, etc.* A development may provide a central dining facility to serve the employees and/or residents of the project subject to the following restrictions:
 1. The facility shall not be open to the general public.
 2. There shall be no off-site signs advertising the presence of the facility.
- (c) *Community centers/recreation centers.* Residential projects may provide a central facility to provide a meeting place and indoor recreation opportunities for residents subject to the following restrictions:
 1. Such facilities shall not include health clubs, gyms, and the like offering services to the general public.
 2. Parking to serve the building shall be provided as required by article

VIII of this chapter.

3. There shall be no identification signs, other than directional signs pursuant to article VII of this [chapter].
- (d) *Employee fitness centers.* Nonresidential development projects may provide a fitness or exercise center for the use of employees subject to the following restrictions:
1. Such facilities shall not be open to the general public.
 2. There shall be no signs, other than directional or occupant signs, identifying the facility.

33-27.03. *Bed and breakfast homestays and inns.*

- (a) *Generally.* The purpose of permitting bed and breakfast homestays as accessory uses in residential areas, bed and breakfast inns as accessory uses in residential areas, and bed and breakfast inns in commercial areas is to preserve historic structures and avert commercial development pressures.
- (b) *Development permit required.* In addition to the specific criteria listed herein, all bed and breakfast homestays and inns shall be reviewed and approved as outlined in section 33-132 of the Land Development Regulations.
- (c) *Where allowed.*
1. Bed and breakfast homestays which are an accessory use to a single-family residence may be located in any of the following zoning districts, provided that the use is consistent with the Comprehensive Plan and the requirements of this section are met: R-R, R-R1, R-1AA, R-1A, R-1B, R-1, R-2, P-1 and PD.
 2. Bed and breakfast inns which are an accessory use to a residential use may be located in any of the following zoning districts, provided that the use is consistent with the Comprehensive Plan and the requirements of this section are met: R-8, R-12, R-16 and PD.
 3. Bed and breakfast inns may be located in any of the following zoning districts, provided that the use is consistent with the Comprehensive Plan and the requirements of this section are met: BR, C-1, C-2, C-2A and PD.

(Ord. No. 2007-12, § 16, 2-5-07)

(d) *Standards.*

1. Bed and breakfast homestays shall be subject to relevant development

and design requirements of a single-family residence for the zoning district in which it is located. Each bed and breakfast homestay shall also conform with the following requirements:

- a. No accessory bed and breakfast home stay shall be permitted to have more than six guestrooms.
 - b. The use of the structure as a bed and breakfast homestay shall be subordinate to its residential purposes and shall not change the character thereof.
 - c. No living quarters or guestrooms may be located in any accessory building.
 - d. The entire perimeter of the property shall be landscaped with a minimum Class A landscape buffer (refer to section 33-92).
 - e. No traffic shall be generated by any bed and breakfast homestay in greater volumes than would normally be expected in a residential neighborhood.
 - f. A bed and breakfast home stay shall be subject to all applicable city occupational licenses and all applicable state and local business taxes.
 - g. Bed and breakfast homestays are restricted to properties, which have at least one side abutting a nonresidential zoning district. (Regulations permitting bed and breakfast facilities shall not be applicable to any residentially zoned property abutting a C-3 zoned area).
 - h. Guestrooms shall be located in structures 50 years of age or older.
 - i. If food service is provided, it shall be restricted to guests staying at the facility.
 - j. In addition to other buffer requirements, a Class B buffer shall screen all parking areas.
2. Bed and breakfast inns, which are accessory uses, shall be subject to the relevant residential development and design requirements for the zoning district in which it is located. Each bed and breakfast inn shall also conform with the following requirements:
- a. No accessory bed and breakfast inn shall be permitted to have more than 12 guestrooms.
 - b. The use of the structure as a bed and breakfast inn shall be subordinate to its residential purposes and shall not change the character thereof.

- c. No living quarters or guestrooms may be located in any accessory building.
 - d. The entire perimeter of the property shall be landscaped with a minimum Class A landscape buffer (refer to section 33-92).
 - e. No traffic shall be generated by any bed and breakfast inn in greater volumes than would normally be expected in a residential neighborhood.
 - f. A bed and breakfast inn shall be subject to all applicable city occupational licenses and all applicable state and local business taxes.
 - g. Guestrooms shall be located in structures 50 years of age or older.
 - h. If food service is provided, it shall be restricted to guests staying at the facility.
 - i. In addition to other buffer requirements, a Class B buffer shall screen all parking areas.
3. Bed and breakfast inns, which are not accessory uses, shall be subject to the relevant residential development and design requirements for the zoning district in which it is located. Each bed and breakfast inn shall also conform with the following requirements:
- a. No accessory bed and breakfast inn shall be permitted to have more than 12 guestrooms.
 - b. The use of the structure as a bed and breakfast inn shall not change the existing residential character of the structure.
 - c. No living quarters or guestrooms may be located in any accessory building.
 - d. The entire perimeter of the property shall be landscaped with a minimum Class A landscape buffer (refer to section 33-92).
 - e. A bed and breakfast inn shall be subject to all applicable city occupational licenses and all applicable state and local business taxes.
 - f. Guestrooms shall be located in structures 50 years of age or older.
 - g. If food service is provided, it shall be restricted to guests staying at the inn.
- (e) *Other applicable regulations.* Bed and breakfast homestays and bed and breakfast inns shall comply with all applicable local, regional, state, and

federal regulations for the district in which the home is located, including but not limited to handicap accessibility and the requirements of the NFPA standards.

- (f) *Nonconforming uses.* Property which does not meet the minimum required lot size or minimum setback requirements of the specific zoning district in which the structure is located may not be considered for review as a bed and breakfast homestay or bed and breakfast inn unless a variance is obtained per section 33-102

33-27.04. *Outdoor storage or display of personal property in various zoning districts.*

- (a) *General requirements.* All accessory storage or display of personal property or materials shall meet the following general standards and requirements, as well as any standards in the sections that follow which apply to specific zoning districts. Personal property is defined as property other than real property consisting of things temporary or moveable.

1. No storage or display of equipment, supplies, merchandise, or personal property is permitted unless there is a permitted principal development on the parcel, located in full compliance with all standards and requirements of this chapter and the equipment or merchandise is screened in accordance with section 33-94.03(i).
2. No outdoor storage or display of equipment, supplies, merchandise, or personal property is permitted in the E-1, P-1, C-1, or C-3 zoning districts, regardless of the nature of the principal development.
3. All outdoor business storage and displays shall be located in a manner which does not cause an obstruction for pedestrians by limiting walkway width to less than five feet and/or sight distance problems for vehicles as described as subsection 33-90.03(O) of the City of DeLand's Land Development Regulations.
4. No outdoor business storage or display shall obscure or interfere with any official notice or public safety sign or device.
5. All outdoor storage, display or sales shall be restricted to private property, and no sales or storage shall be permitted on publicly owned land including, but not limited to, sidewalks and improved or unimproved right-of-way, unless approved by the city manager or designee as part of an approved special event.
6. Unless used as part of a permitted special event, no moveable vehicle such as a truck or trailer shall be used for outside storage or sales.

- (b) *Specific zoning district requirements for the BR, C-2, C-2AC, C-4 and M-1 zoning districts.* Unless otherwise prohibited in the list of primary,

conditional or special-exception uses for each zoning district, outdoor display of equipment, supplies, merchandise, or personal property is permitted in the zoning districts as provided for below if they meet the following criteria in addition to the general requirements listed in subsection (a).

1. Outdoor display of equipment, supplies, merchandise, or personal property uses are permitted in the BR, C-2 and C-2AC zoning districts under the following criteria.
 - a. All outdoor business displays shall be temporary and easily moved. The displays shall be placed outside only while the primary business is open. No outdoor displays shall be permitted within the public right-of-way.
 - b. All outdoor business displays shall be continuously maintained in a state of order, security, safety and repair. The display surface shall be kept clean, neatly painted, and free of rust, corrosion, protruding tacks, nails and/or wires. Any cracked, broken surfaces or other unmaintained or damaged portion of a display shall be repaired or replaced or removed immediately.
 - c. All outdoor business displays shall be neat, orderly and otherwise conducive to creating a top-quality shopping environment. No display shall contain obscene, indecent or immoral matter.
 - d. The outdoor business displays must be self-supporting, stable and weighted or constructed to withstand overturning by wind or contact. The display shall not be permanently affixed to any object, structure or the ground including, but not limited to, utility poles, light poles, and trees.
 - e. The length of an outdoor business display area shall not exceed five percent of the building front facade measured in linear feet. The display area may be as much as ten feet when five percent of the front facade would be less than ten feet.
2. Outdoor storage or display of equipment, supplies, merchandise, or personal property uses are permitted in the in the rear of the property in the C-2 zoning district only. The outdoor display or storage is not permitted in the landscape buffer area.
3. Vehicle display areas, if approved by a site plan of a special exception in the C-2 and C-2AC districts, shall be allowed to locate in the front of the principal building, but not in any landscape buffer area.
4. Outdoor storage of equipment, supplies, and personal property may occur in the C-3, C-4, and M-1 zoning districts providing the following conditions are met:

- a. No outdoor storage area shall be located in the landscape buffer area.
- b. The storage area shall be entirely screened with an opaque screen of at least eight feet in height. Webbed chain link fences may not be utilized to meet this requirement. Masonry block, wood, vinyl or other building materials are permitted.
- c. The screen must be set back at least five feet from the rear and side lot lines.
- d. Screening may be composed entirely of plant materials provided that at maturity, or within one year, whichever is less, the plant materials shall be at least eight feet high and 85 percent opaque. If the screen is constructed of block, wood, or other building materials, then two shrubs per 30 linear feet of fence will be required to be planted on the exterior side of the screen. Shrubs may be clustered.

(Ord. No. 2007-12, § 17, 2-5-07)

- (c) *Downtown requirements.* Outdoor display of equipment, supplies, merchandise, or personal property uses are permitted in the C-2A zoning district if they meet the following criteria:
 - 1. All outdoor business displays shall be temporary and easily moved. The displays shall be placed outside during business hours only. Outdoor displays shall be permitted within the public sidewalk or right-of-way only as provided for herein.
 - 2. All outdoor business displays shall be continuously maintained in a state of order, security, safety and repair. The display surface shall be kept clean, neatly painted, and free of rust, corrosion, protruding tacks, nails and/or wires. Any cracked, broken surfaces or other unmaintained or damaged portion of a display shall be repaired or replaced or removed within 30 days.
 - 3. All outdoor business displays shall be neat, orderly and otherwise conducive to creating a top quality shopping environment. No display shall contain obscene, indecent or immoral matter.
 - 4. The outdoor business displays must be self-supporting, stable and of sufficient weight or constructed to withstand overturning by wind or contact. The display shall not be permanently affixed to any object, structure or the ground including, but not limited to, utility poles, light poles, and trees.
 - 5. Each individual business within the C-2A zoning district shall be allowed a business display area to be located outside the walls of the subject business building. This display may include, but is not limited to:

- a. Racks of items;
- b. Display carts;
- c. Individual items such as pieces of furniture, or sculpture, that are too large to place on or in a rack, table or cart;
- d. Display tables with various business-related items sold within the building, such as that used for a "sidewalk sale".

The display area may be broken into clusters so long as the total length of all outdoor business display areas does not exceed 50 percent of the building front facade measured in linear feet. The total display area may be as much as eight feet in length when 50 percent of the front facade would be less than eight feet.

These business displays shall not contain any information which would routinely be placed on a business sign located on the building such as the name or type of business, hours of business operation, business logo, brand name information, etc. The business display may include a sign which indicates the price of the display item(s) or simply indicates a "sale" on the item(s).

6. The outdoor business display shall be placed adjacent to and parallel to the subject business building. These displays shall not be placed adjacent to the street curb or perpendicular to the subject business building. A clear area of at least five feet in width must be maintained for pedestrian use between the street curb and the outer edge of the business display. A clear area of five feet in width must also be maintained to building entries. An outdoor business display shall not encroach upon the building frontage of an adjacent business.
7. The overall height of the display shall be limited to four feet; however individual items, racks or display areas may exceed this limit so long as they comprise no more than 25 percent of the maximum permissible display length for the building, are less than seven feet in height, and do not obscure view of the sales area from the building windows.
8. If a business has outdoor tables or seats for public use located within the public sidewalk or right-of-way, no additional business display shall be permitted. If a business has a sandwich board sign in front of the business the business display area shall be reduced in size equal to the size of the sandwich board sign.
9. All outdoor business displays shall be temporary. The displays shall be placed outside only while the primary business is open. No permanent outdoor displays shall be permitted within the public sidewalk or right-of-way. Nothing herein is intended to be an

abandonment of any dedicated or prescriptive sidewalk or rights-of-way and the temporary displays on the public sidewalk or right-of-way may be removed at the discretion of the city manager or his designee if he determines that the display interferes with pedestrian traffic or otherwise determines that the display creates a safety hazard.

10. Any person who wishes to place outdoor tables and seating not associated with a sidewalk cafe on a public sidewalk or right-of-way shall do so at his or her own risk and shall execute an agreement in conformance with Section 26-9.5, Sidewalk Cafes of the Code of Ordinances.
11. Outdoor storage within the C-2A district is only allowed as an accessory use to a hardware store or plant and landscape store and may only occur providing all materials are stored on the lot with the principal structure and not within more than two parking spaces of the off street parking area. Materials may not be stored in the landscape buffer or right-of-way. Unless approved as part of a Class IV site plan by the city commission, materials to be stored must be located adjacent to and parallel to the front plane of the primary building and may not exceed seven feet in height and five feet in width.

(d) *Seasonal or temporary display requirements.* In addition to the nonseasonal displays described above, outdoor display of seasonal (holiday) supplies or merchandise is permitted in the M-1, BR, C-2, C-2 A and C-2AC zoning districts and as an accessory use to a permitted school or church use if they meet the following criteria:

1. Approved by the fire department.
2. Display area does not block vehicular or pedestrian access or fire lanes.
3. Seasonal display and sales area does not result in insufficient on-site parking.
4. All displays associated with seasonal sales shall be erected no earlier than 35 days prior to each of the following holidays: Easter, Independence Day, Halloween and Christmas Day. Display areas and merchandise shall be removed seven days after said holiday.
5. Subject to the above criteria and applicable fire and safety codes, the chief building official may authorize a special use permit for a seasonal display.

(Ord. No. 2004-10, § 4, 2-16-04; Ord. No. 2004-40, § 1, 8-16-04)

33-27.05. *Low intensity agriculture.*

- (a) *Generally.* Low intensity agriculture is permitted only as an accessory to single-family dwellings. The uses in this category include the raising of crops, citrus, or fern; and the keeping of livestock, including aviaries, pisciculture, and apiaries.

Low intensity agricultural uses are restricted to properties, which are located in either the R-R or R-R1 zoning districts. Low intensity agricultural land uses may be permitted in other single-family zoning districts provided that the property is at least two acres in area and that a minimum of a Class C landscape buffer is provided along the perimeter of the property.

- (b) *Where allowed.* Low intensity agricultural uses which are an accessory use to a single-family residence may be located in any of the following zoning districts, provided that the use is consistent with the Comprehensive Plan and the requirements of this section are met: R-R, R-R1, R-1AA, R-1A, R-1B, and R-1.
- (c) *Other applicable regulations.* The primary use shall comply with all applicable local, regional, state, and federal regulations for the district in which the primary use is located.
- (d) *Nonconforming uses.* Property which does not meet the minimum required lot size or minimum setback requirements of the specific zoning district in which the structure is located shall not be permitted to have low intensity agriculture as an accessory use.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-28. - Accessory structures.

33-28.01. *General standards and requirements.*

- (a) *Permit required.* No person shall construct, erect, place or replace any accessory structure regulated by this article, until the owner of the property on which the structure is to be located, or his agent, has obtained a building permit for the structure.
- (b) *Where allowed.* Unless otherwise restricted below, accessory structures are allowed where appropriate to the use allowed by the zoning district. Common accessory structures include signs, satellite dish antennas, fences, swimming pools, tennis courts, laundry rooms, maintenance buildings, recreational buildings, utility sheds, greenhouses, garages and carports. Temporary structures are not allowed to be used as accessory structures.
- (c) *General requirements.* All accessory structures shall meet the following general standards and requirements, as well as any standards in the sections that follow applicable to specific types of accessory structures.

1. There shall be a permitted principal development on the parcel, located in full compliance with all standards and requirements of this chapter.
2. When an accessory building is attached to a principal structure by a breezeway, roofed passage or otherwise, it shall be deemed to be part of the principal building and shall maintain the yard requirements of the principal building.
3. Any detached accessory building, use or structure for residential zoning districts located in the rear or side yard shall be set back a minimum of seven and one-half feet. Any detached accessory building, use or structure for nonresidential zoning districts located in the side yard shall observe the zoning districts side yard setback requirements (signs; refer to section 33-78.04(e)) and may be allowed to encroach up to one-half the distance of the minimum rear yard setback. Any detached accessory building, use or structure shall not be located inside platted easements. No such use, building or structure shall be located closer than six feet to any other accessory building, use or structure on the same lot.
4. No detached accessory building shall be located in the front yard setback area of any lot or parcel or in residential districts in front of the principal building or structure.
5. An accessory building not exceeding 15 feet in height may occupy not more than 35 percent of a required rear yard.
6. No attached accessory use, building, or structure, including carports, screened enclosures, sheds, or other such uses, shall be located in the front yard setback area. If such uses are located in the side yard, these structures shall observe the district side yard setback requirements.

33-28.02. *Signs.* See articles IV and VII of this chapter.

33-28.03. *Satellite dish antenna.*

(a) *Where allowed.* A satellite dish antenna may be erected as an accessory structure in the following zoning districts: R-R, R-R1, R-1AA, R-1A, R-1B, R-1, R-2, R-8, R-12, R-16, R-M, P-1, E-1, BR, C-1, C-2, C-2A, C-3, C-4 and M-1.

(b) *Standards.*

1. All satellite dish antennas shall comply with requirements of the Federal Communications Commission.
2. The construction and installation of all satellite dish antennas shall conform to applicable building code and electrical code regulations

and requirements.

3. Satellite dish antennas shall be constructed and erected in a secure and wind-resistant manner. The antenna shall be wind-resistant enough to withstand 110-mile-per-hour winds without sustaining damage.
4. Satellite dish antennas shall be adequately grounded for protection against a direct strike of lightning.
5. Roof-mounted satellite dish antennas, where allowed, shall require certification from a structural engineer stating the structure is strong enough to support safely the antenna, and that the antenna does not place such additional stress on the structure that the integrity of the structure is threatened.
6. A satellite dish antenna located in the R-R, R-R1, R-1AA, R-1A, R-1B, R-1, R-2, R-8, R-12, R-16 and R-M zoning districts, if it is one (1) meter in diameter or less, shall be exempted from these regulations, and if larger than one (1) meter in diameter shall meet the following regulations:
 - a. There shall be only one antenna on each lot.
 - b. The antenna shall not exceed ten and one-half feet in diameter.
 - c. The antenna shall not exceed 15 feet in height, as measured from the base of the antenna to the highest point of the antenna.
 - d. The antenna shall not be roof-mounted.
 - e. The antenna shall be located only in a rear yard a minimum of 15 feet from any lot line.
 - f. The antenna shall be screened on all sides that have a view from surrounding property owners, including the view from a street. Fences, walls, hedges, or trees or other landscape plant materials, or a combination of such items may be used for screening. Any screening shall be selected and located to provide a visual barrier that is 75 percent or more opaque and shall be a maximum of six feet in height.
7. A satellite dish antenna in excess of two (2) meters in diameter and located in the P-1, E-1, C-1, C-2, C-2A, C-2AC, C-3, C-4 and M-1 zoning districts shall comply with the following regulations:
 - a. Satellite dish antennas, which are two (2) meters or less in diameter exempt from all state and/or local zoning, land use and/or building regulations.

- b. More than one antenna is permitted to be mounted on the roof of a building.
- c. Satellite dish antennas shall not exceed 16 feet in diameter.
- d. If the antenna is mounted on the roof of a building, the antenna shall be limited to a maximum height of 20 feet above the building structure.
- e. If the antenna is mounted on the ground, the antenna shall not be located between a building and a front yard lot line. All ground-mounted antennas shall be placed a minimum of 15 feet from any lot line and effectively screened by a fence, wall or dense screening hedge to a maximum height of six feet. If the subject parcel adjoins a residential district, the ground-mounted antenna shall be screened from the residential district as provided in paragraph (b)6.f. above.

(Ord. No. 2007-12, § 18, 2-5-07)

33-28.04. *Storage buildings, utility buildings, and greenhouses.*

- (a) *Where allowed.* Storage buildings, utility buildings, greenhouses, and other similar structures are allowed as accessory structures in all zoning districts.
- (b) *Standards.*
 - 1. No such structures used for industrial storage of hazardous, incendiary, noxious, or pernicious materials shall be located nearer than 100 feet from any property line.
 - 2. Such structures may be erected only if in compliance with standards for distance between buildings, and setbacks if any, from property lines.
 - 3. Such structures may be erected only in side and rear yards, and shall not encroach into any required building setback from an abutting right-of-way.
 - 4. Such structures shall be included in calculations for impervious surface, floor area ratio, or any other site design requirements applying to the primary use of the lot.
 - 5. Vehicles, including trailers, manufactured housing and mobile homes, shall not be used as such a structure.

33-28.05. *Swimming pools, hot tubs, and similar structures.*

- (a) *Where allowed.* Swimming pools, hot tubs, and similar structures are

allowed as accessory structures in the following zoning districts: R-R, R-R1, R-1A, R-1AA, R-1B, R-1, R-2, R-12, R-16, R-M, P-1, BR, E-1, C-1, C-2, C-2A, C-3, C-4 and M-1.

- (b) *Standards.* Swimming pools, hot tubs, and similar structures may be erected only if in compliance with the following standards:
1. Swimming pools, shall be located at least eight feet from any rear lot line and swimming pool screen enclosures at least five feet from any rear lot line, but they shall not be located in platted easements. They shall comply with minimum side yard and street side setbacks.
 2. The roof, and all portions of the walls for screen enclosures in excess of six feet above the pool deck or ground level, whichever is less, shall be made of screen material. That portion of the walls up to a height of six feet above the pool deck or ground level, whichever is less, may be made of either an opaque or screen material.
 3. They shall be completely enclosed with an approved wall, fence or other substantial structure not less than four feet in height. The enclosure shall completely surround them and shall be of sufficient density to prohibit unrestrained admittance to the enclosed area through the use of self-closing and self-latching doors.
 4. No overhead electric power lines shall pass over them unless enclosed in conduit and rigidly supported, nor shall any power line be nearer than ten feet horizontally or vertically from the water's edge.
 5. Excavations shall not exceed a 2:1 slope from the foundation of an existing house, unless a trench wall is provided.

(Ord. No. 2007-12, § 19, 2-5-07)

33-28.06. *Fences and walls.*

- (a) *Submittal.* No permit for a fence or wall shall be issued unless the applicant for the permit has filed with the building official a drawing showing the location, height and type of wall or fence to be located, erected, constructed, replaced, reconstructed or altered, and showing that such wall or fence shall be in compliance with this article. All set-backs shall be indicated on the drawing from property lines and structures.
- (b) *Where allowed.* Fences and walls are allowed in all zoning districts.
- (c) *Compliance with article.* No person, after the effective date of this article, shall locate, erect, construct, replace, reconstruct, or alter, any fence or free standing wall in any zoning district within the City of DeLand, unless a permit has been obtained from the building department. No such permit shall be issued unless the application for the permit has been filed with the

building official, along with a drawing showing the location, height and type of wall or fence proposed to be located, erected, constructed, replace, reconstructed or altered, and showing that such wall or fence shall be in compliance with this article. All set-backs shall be indicated on the drawing from property lines and structures.

(d) *Height restrictions.*

1. In the R-R, R-R1, R-1AA, R-1A, R-1B, R-1, R-2, P-1 and C-2A zoning districts, except as part of the fencing around the perimeter of a subdivision, no freestanding wall or fence located within the front yard setback area or within the street side yard setback area shall exceed four feet in height. In the R-R, R-R1, R-1AA, R-1A, R-1B, R-1, R-2, P-1 and C-2A zoning districts, all other freestanding walls and fences shall not exceed six feet in height.
2. In the R-8, R-12, R-16, R-M, BR, C-1, C-2, C-2AC and C-3 zoning districts, free standing walls and fences shall not exceed eight feet in height. Parcels adjacent to a single-family dwelling district must construct an eight-foot-high fence or wall with a minimum of an 80 percent uniform visual screen if buildings exceed 35 feet in height.
3. In the C-4 and M-1 zoning districts, freestanding walls and fences shall not exceed eight feet in height.
4. In the E-1 zoning district, freestanding walls and fences, in excess of six feet in height, but not to exceed ten feet in height, may be located no closer than 20 feet to any adjacent property and/or public right-of-way. All other freestanding walls and fences may not exceed a height of six feet.
5. Height of fence or wall shall be measured from the original grade closest to the property where the wall is constructed. Upon determination by the chief building official that a berm will not damage vegetation, plant life or trees, the height requirement may be met with a combination of an earthen berm and a fence or wall, but shall not exceed the maximum allowable height of a specific zoning district.

(e) *Restrictions of location near fire hydrants.* No freestanding wall or fence shall be located within 25 feet of a fire hydrant without written approval of the chief of the fire department. The chief shall not grant such approval when such wall or fence will hinder his men and machines in the fighting of fire.

(f) *Height limitation at street intersections.* All fences and walls shall comply with the clear visibility triangle provisions in section 33-90.03 of this chapter.

- (g) *Permissible materials.* All freestanding walls and fences shall be adequately secured and designed to withstand stresses to which they may reasonably be expected to be subjected, and shall be constructed of any of the following materials or combination thereof:
1. Wood (except slash bark) of rot- and termite-resistant species, or chemically treated or painted to resist rot and termite attack.
 2. Steel posts, wire, and other metal fabrication.
 3. Ornamental iron.
 4. Concrete, masonry or, with the approval of the city engineer, masonry clad polystyrene or a similarly structurally durable product.
 5. Vinyl, prefabricated, ornamental.
 6. Barbed wire is only permitted for security fences in the M-1 and C-4 districts and fences that may be erected around high voltage substations, pumping stations, public service utilities, school yards, public playgrounds, public parks, cemeteries and governmental or public utility owned property.
 7. Native vegetation may be used in lieu of a fence or wall that meets the following conditions:
 - a. Vegetation is existing and in good condition;
 - b. Vegetation is at the required height per zoning district;
 - c. Vegetation provides at least a visual screen of 80 percent.
- (h) *Prohibited materials.* No such wall or fence shall be constructed of:
1. Electrically charged materials.
 2. Barbed wire (except as permitted in section (g)6. above).
 3. Rubble, scrap iron, bottles, junk and any other like materials.
- (i) *Maintenance.* The owner or owners shall maintain any freestanding wall or fence thereof, and all support and/or bracing shall be placed towards the interior of the property on which the wall or fence is located.
- (j) *Height limitations for security fences.* The height restrictions pertaining to freestanding walls and fences herein above set forth shall not apply to security walls or fences that may be erected around high voltage substations, pumping stations, public service utilities, school yards, public playgrounds, public parks, cemeteries, and governmental or public utility owned property located in any residential zone.

(k) *Location.* Unless specifically addressed under the Gateway District Overlay, fences and walls shall be located as follows, except for security fences:

1. Nonresidential uses shall not have fences or walls located in the front landscape buffer or along the property line adjacent to any right-of-way.
2. Residential uses shall be allowed to have fences and walls adjacent to property lines that meet the height restrictions contained in subsection (d) above.

(Ord. No. 2007-12, § 20, 2-5-07)

33-28.07. *Bus stops.*

(a) *Where allowed.* Bus stops and other similar structures are allowed as accessory structures in all zoning districts.

(b) *Standards.* Bus stops and similar structures may be erected only if in compliance with the following standards:

1. Bus stops shall be permitted in front or side setback areas. They may also be allowed inside the required landscape buffers.
2. Bus stop area may not exceed 200 square feet.
3. Exterior appearance shall be compatible with principal building's

exterior.

33-28.08. *Shade structures.*

(a) *Where allowed.* Shade structures less than 800 square feet are allowed in the following zoning districts; M1, C2, C2AC, C3, C4, E1, BR and PD. Shade structures greater than 800 square feet are allowed by special exception in the above listed districts. Shade structures may also be included as part of a public park's special exception request.

(b) *Standards.* Shade structures may be erected only if in compliance with the following standards:

1. Structure frame must meet the Florida Building Code requirements, which includes withstanding winds up to 120 miles per hour.
2. Fabric or membrane material must be flame retardant.
3. Material must be fastened to the support structure in a manner that allows for the material to break away at winds of 75 miles per hour.
4. No advertising or other signage is permitted on a shade structure.

5. Structure may not be located in either the setback or landscape buffer area.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02; Ord. No. 2007-12, § 21, 2-5-07)

Secs. 33-29, 33-30. - Reserved for future use.