

## ARTICLE IV. - OVERLAY AND FLOATING ZONES

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### **Sec. 33-31. - Purpose.**

- (a) *Generally.* The purpose of this article is to describe certain overlay and floating zones used to impose special development restrictions on identified areas.
- (b) *Overlay zones.* The location of overlay zones is established by the city based on the need for special protective measures in that area. The underlying uses in the area, as determined in article II or contained in section 33-32 of this chapter remains undisturbed by the creation of the overlay zone. The overlay zone merely imposes additional or different development standards than those that would otherwise apply. The DeLand Municipal Airport and the Historic Districts and landmarks regulations operate as overlay zones.
- (c) *Floating zones.* The developer, by contrast, determines the location of a floating zone. The purpose of a floating zone is to allow the developer to choose to follow a set of development standards different from the general standards in this chapter. The Planned Development District is a floating zone.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

### **Sec. 33-32. - Planned Development District.**

33-32.01. *Generally.*

#### (a) *Purpose and intent.*

1. The Planned Development District is intended to provide a method for consideration and approval of unique zoning districts for individual Planned Developments (PD) which are not provided for or allowed in the zoning districts otherwise established by this chapter.
2. The PD district is designed to allow an applicant to submit a proposal for any uses or any mixture of uses.

3. The standards and procedures of this district are intended to promote flexibility of design and to permit planned diversification and integration of uses and structures, while at the same time reserving to the city commission the absolute authority to establish limitations and regulations for the development deemed necessary to protect the public health, safety and welfare. In so doing, the PD district is designed to:
  - a. Promote more efficient and economic uses of land, including bypassed lands.
  - b. Encourage more compatible and harmonious development of contiguous lands.
  - c. Promote home ownership opportunities for all residents of the community.
  - d. Provide flexibility to meet changing needs, technologies, economics, and consumer preferences.
  - e. Be totally controllable based on the needs of the city, in terms of the impact on the proposed site and surrounding neighborhoods.
  - f. Encourage uses of land, which reduce transportation needs and which conserve energy and natural resources.
  - g. Preserve to the greatest extent possible, and utilize in a harmonious fashion, existing landscaping features and amenities.
  - h. Provide for more usable and suitably located recreational facilities, open spaces and scenic areas, either commonly owned or publicly owned, than would otherwise be provided under conventional land-development procedures.
  - i. Lower development and building costs by permitting smaller networks of utilities and streets and the use of more economical building types and shared facilities.
  - j. Accomplish more desirable living and working environments than would be possible through the strict application of minimum requirements of the city's other zoning and subdivision regulations.
  - k. Permit the combining and coordinating of architectural styles, building forms, and building relationships within a Planned Development.
  - l. Provide an environment of stable character compatible with surrounding developments.
  - m. Permit specific limitations and requirements in excess of those

included in other zoning districts, based on the unique characteristics of the individual site, where necessary to the public health, safety, or welfare, or for the protection of preservation of lands, either internal or external to the planned development.

- (b) *Voluntary use.* The PD district shall be a voluntary process commenced by an applicant for PD (zoning designation). The city shall not initiate a PD rezoning on privately owned property or designate specific lands for planned development in its adopted Comprehensive Plan.

33-32.02. *Criteria and standards for approval.*

- (a) *Minimum conditions for approval.* The approval of planned development rezoning or development plan may not be approved unless the following minimum conditions are met:

1. Except in the Downtown Commercial land use designation, the minimum size of the proposed development shall be one acre for both residential and nonresidential development. Planned Developments in the Downtown Commercial land use designation have no minimum size.
2. Minimum setbacks at the perimeter of the development shall be equal to those of the abutting districts, except in the Downtown Commercial land use designation.
3. The development shall be consistent with the DeLand Comprehensive Plan, unless a corresponding amendment to the Comprehensive Plan is also adopted.

- (b) *Internal compatibility.* All land uses within the proposed development shall be compatible with other proposed uses. The planning board and the city commission shall consider the following factors in judging internal compatibility:

1. The streetscape.
2. The existence or absence of, and the location of, open spaces, plazas, recreational areas and common areas.
3. The use of existing and proposed landscaping.
4. The treatment of pedestrian ways.
5. Focal points and vistas.
6. The use of the topography, physical environment and other natural features.
7. Traffic and pedestrian circulation pattern.

- buffering.
8. The use and variety of building setback lines, separations and
  9. The use and variety of building groupings.
  10. The use and variety of building sizes and architectural styles.
  11. The use and variety of materials.
  12. The separation and buffering of parking areas and sections of parking areas.
  13. The variety and design of dwelling types.
  14. The particular land uses proposed and the conditions and limitations thereon.
  15. The form of ownership proposed for various uses.
  16. Any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of any proposed use within the proposed development.

(c) *External compatibility.* All proposed land uses shall be compatible with existing and planned uses of properties surrounding the proposed development. The planning board and the city commission shall consider the following factors in judging external compatibility:

1. All of those factors listed in the preceding section, with particular attention to those areas of the development located on or near its perimeter and the conditions and limitations thereon.
2. The particular uses proposed near the development perimeter and the conditions and limitations on those uses.
3. The type, number and location of surrounding external uses.
4. The Comprehensive Plan goals and objectives and zoning regulations for surrounding external uses.
5. Any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of lands surrounding the proposed development and any existing or planned use of such lands.

(d) *Intensity of development.* The residential density and intensity of use of a development plan shall have no undue adverse impact upon the physical and environmental characteristics of the site and surrounding lands. Within the policy limitations of the Comprehensive Plan, the permitted residential density and intensity of use in a proposed development may be adjusted upward or downward in consideration of the following factors:

1. The location of various proposed uses within the development and the degree of compatibility of such uses with each other and with surrounding uses.
  2. The amount and type of protection provided for the safety, habitability and privacy of land uses both internal and external to the development.
  3. The existing residential density and intensity of use of surrounding lands.
  4. The availability and location of utilities services and public facilities and services.
  5. The amount and size of open spaces, plazas, common areas and recreation areas.
  6. The use of energy-saving techniques and devices, including sun and wind orientation.
  7. The existence and treatment of any environmental hazards to the development of surrounding lands.
  8. The access to and suitability of transportation arteries proposed within the development and existing external transportation systems and arteries.
  9. Any other factor deemed relevant to the limitation of the intensity of development for the benefit of the public health, welfare and safety.
- (e) *Open spaces, plazas and recreation.* Open spaces, plazas and recreation areas provided within a development plan shall be evaluated based on conformance with the goals and objectives of the Comprehensive Plan and the sufficiency of such areas to provide appropriate recreational opportunities, protect sensitive natural areas, conserve areas of unique beauty or historical significance, provide structure to neighborhood design, and encourage compatible and cooperative relationships between adjoining land uses.
- (f) *Sidewalks, trails, bikeways.* The design of a development plan should, whenever feasible, incorporate appropriate pedestrian and bicycle access ways to provide for a variety of transportation alternatives.
- (g) *Environmental constraints.* The site of the proposed development shall be suitable for use without hazards to persons either on or off the site from the likelihood of increased flooding, erosion or other dangers, annoyances or inconveniences. The condition of the soil groundwater level, drainage and topography shall all be appropriate to the type, pattern and intensity of development intended.

- (h) *Internal access and circulation.* Every dwelling unit or other use permitted in a development plan shall have access to a public street either directly or by way of a private road, pedestrian way, common area guaranteeing access. Private roads and other access ways shall be required to be constructed to ensure that they are safe and maintainable.
- (i) *External transportation access.* The proposed development shall be located on, and provide access to, a major street as designated in the Comprehensive Plan unless, due to the size of the development and the type of uses proposed, it will not adversely affect the type or amount of traffic adjoining local streets.
- (j) *Off-street parking.* Sufficient off-street parking and loading facilities for bicycles and other vehicles as well as cars shall be provided. The requirements of section 33-91 of this chapter shall be used as a general guide in determining the needs for such facilities. Parking areas shall be constructed in accordance with such standards as are approved by the city commission to ensure that they are safe and maintainable and that they allow for sufficient privacy for adjoining uses.
- (k) *Public facilities.* No development plan shall be approved without adequate on-site and off-site public facilities, including but not limited to storm drainage, sanitary sewers, roadway capacity, fire/rescue service, police service, water distribution system and recreational facilities, which shall serve the proposed development.
- (l) *Unified control.* The applicant shall furnish the city with sufficient evidence to the satisfaction of the city attorney that the applicant is in complete and unified possession and control of the entire area of the proposed Planned Development, whether the applicant shall provide to the city all necessary documents and information that may be required by the city attorney to ensure that the development project may be lawfully completed according to the plans submitted. No application shall be considered until the requirements of this section have been fully complied with.
- (m) *Phasing.* The city commission may permit or require the phasing or staging of the proposed development. When provisions for phasing are included in the development plan, each phase of development must be planned and related to previous development, surrounding properties, and the available public facilities and services so that a failure to proceed with subsequent phases will not adversely affect public facilities or interests, or surrounding properties.
- (n) *Development time limits.* The city commission shall establish reasonable periods of time for the completion of the total proposed development, any development phases. Any dedicated public facilities, which are part of the development; and facilities planned for common areas. These time limits

may be extended by the city commission for reasonable periods upon the petition of an applicant for an amendment to the development plan and based upon good cause, as determined by the city commission. Any extension of time shall not automatically extend the normal expiration date of a building permit, site plan approval or other development order. If time limits contained in the approved development plan are not complied with and not extended for good cause, the city commission may rezone the property or any part of it or amend the approved development plan so as to best protect adjoining properties and the public health, safety and welfare.

- (o) *Bonds.* The city commission may include in the development plan requirements for bonds (or appropriate alternatives) conditioned upon the satisfactory and timely completion of facilities in the development plan, for the benefit of the city and purchasers from the applicant, when the development time limits and phasing schedule do not preclude the sale of individual units prior to the completion of such facilities. In the event that a requirement for bonds or appropriate alternative is not provided for in the plan, then the requirements for such bonds required in this chapter shall be complied with.
- (p) *Applicability of other chapters.* All building code, housing code and other land use regulations of the city are applicable to the PD district, except for those permitting special exceptions and variances and except to the extent that they conflict with a specific provision of the approved development plan. Analogous land use regulations applying to other areas of the development shall be as determined by the city commission as part of the approved development plan or, if not determined therein, during the site plan approval process set forth in this chapter, giving due regard to the purpose of each such regulation and the similarity of each area of the Planned Development to other zoning districts in terms of permitted uses.
- (q) *Variances applicable to the planned development.* A property within a Planned Development may apply for a variance provided that all of the following criteria are met:
  - 1. The development order does not prohibit individual property owners from applying for variances.
  - 2. The variance request is not contrary to the recorded covenants and deed restrictions.

(Ord. No. 2005-65, § 11, 12-19-05; Ord. No. 2010-16, § 3, 9-7-10)

33-32.03. *Procedure for approval.* Planned Developments shall be reviewed pursuant to the procedures in section 33-133 of article XII of this chapter.

**Sec. 33-33. - DeLand Municipal Airport zoning regulations.**

33-33.01. *Generally.*

- (a) *Statement of intent.* The intent of this section is to carry out the provisions of the Airport Law of 1945, §§ 332.01—332.12, Florida Statutes through the enforcement of the following regulations referred to as the DeLand Municipal Airport overlay.
- (b) *Creation of zones.* In order to carry out the provisions of this section, there are hereby created and established certain "public civil airport height zones" which include all of the land lying beneath the approach, transitional, horizontal and conical surfaces as they apply to a particular airport. These zones are the primary, horizontal, conical, approach, and transitional zones. A description of each, and the limitations that apply therein, is described below.
- (c) *Land in more than one zone.* An area located in more than one of the described zones is considered to be only in the zone with the more restrictive height limitation.
- (d) *Conflicting regulations.* Where there exists a conflict between any of the regulations or limitations prescribed in this section and other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.
- (e) *Definitions.* As used in this section, unless the context otherwise requires:
  1. *Accident potential hazard area* means an area within 5,000 feet of the approach or departure end of a runway or in proximity to an airport in which aircraft may maneuver after takeoff or before landing and are subject to the greatest potential to crash into a structure or the ground.
  2. *Airport* means the Sidney H. Taylor/DeLand Municipal Airport and all land lying vertically under the designated approach zones.
  3. *Airport elevation* means the highest point of an airport's usable landing area measured in feet above Mean Sea Level.
  4. *Airport obstruction* means any structure or object of natural growth or use of land which would exceed the federal obstruction standards as contained in 14 CFR §§ 77.21, 77.23, 77.25 and 77.28 or which obstructs the airspace required for flight of aircraft in landing and takeoff at an airport or is otherwise hazardous to such landing or takeoff of aircraft.
  5. *Airspace height* means to determine the height limits in all zones set forth in this section; the datum shall be Mean Sea Level elevation (AMSL) unless otherwise specified.
  6. *Decision height* means the height at which a decision must be made, during all ILS instrument approach, to either continue the approach or

to execute a missed approach.

7. *Minimum descent altitude* means the lowest altitude, expressed in feet above Mean Sea Level, to which descent is authorized on final approach or during circling-to-land maneuvering in execution of a standard instrument approach where no electronic glide slope is provided. *Visual runway* means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedures and no instrument designation indicated on an FAA approved airport layout plan, a military services approved military layout plan, or by any planning document submitted to the FAA by competent authority
8. *Minimum en route altitude* means the altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.
9. *Minimum obstruction clearance altitude* means the specified altitude in effect between radio fixes on VOR airways, off-airway routes, or route segments which meet obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within 22 miles of a VOR.
10. *Nonconforming use* means any preexisting structure, object of natural growth or use of lands which is inconsistent with the provisions of this section, or amendments thereto.
11. *Nonprecision instrument runway* means a runway having a nonprecision instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.
12. *Precision instrument runway* means a runway having an instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an FAA-approved airport layout plan; a military service's approved military airport layout plan; any other FAA planning document, or military service's military airport planning document.
13. *Runway* means a defined area on an airport prepared for landing and takeoff of aircraft along its length.
14. *Structure* means any object, constructed or installed by man, including but not limited to buildings; towers; smokestacks; utility poles and overhead transmission lines.

15. *Zoning administrator* means the administrative office or agency responsible for administering zoning within each of the political subdivisions which adopts these DeLand Municipal Airport Land Use Regulations.

(Ord. No. 2008-08, § 7, 4-7-08)

33-33.02. *Primary zone.*

(a) *Defined.* An area longitudinally centered on a runway, extending 200 feet beyond each end of that runway, with the width so specified for each runway for the most precise approach existing or planned for either end of the runway.

(b) *Dimensions.* The width of the primary zone is as follows:

1. *Runway 12:* 1,000 feet for precision instrument runways.
2. *Runways 23 and 30:* 500 feet for nonprecision instrument runways having visibility minimums greater than three-fourths statute mile.
3. *Runway 05:* 500 feet for visual runways having only visual approaches.

(c) *Height limitations.* No structure or obstruction that is not part of the landing and takeoff area and is of a greater height than the nearest point on the runway centerline will be permitted within the primary zone.

33-33.03. *Horizontal zone.*

(a) *Defined.* The area around each civil airport with an outer boundary the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary zone of each airport's runway and connecting the adjacent arcs by lines tangent to those arcs.

(b) *Dimensions.*

1. The radius of each arc is: runways 05, 12, 23 and 30—10,000 feet for all runways not designated as visual.
2. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest composite value determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal zone.

(c) *Height limitations.* No structure or obstruction will be permitted in the horizontal zone that has a height greater than 150 feet above the airport height.

33-33.04. *Conical zone.*

- (a) *Defined.* The area extending outward from the periphery of the horizontal zone for a distance of 4,000 feet.
- (b) *Height limitations.* Height limitations for structures in the conical zone are 150 feet above airport height at the inner bound with permitted height increasing one foot vertically for every 20 feet of horizontal distance measured outward from the inner boundary to a height of 350 feet above airport height at the outer boundary.

33-33.05. *Approach zone.*

- (a) *Defined.* An area longitudinally centered on the extended runway centerline and extending outward from each end of the primary surface. An approach zone is designated for each runway based upon the type of approach available or planned for that runway end.
- (b) *Dimensions.* The dimensions of the approach zone are as follows:
  - 1. The inner edge of the approach zone is the same width as the primary zone and it expands uniformly to a width of:
    - a. *Runway 12:* 16,000 feet for precision instrument runway.
    - b. *Runways 23 and 30:* 3,500 feet for that end of a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile.
    - c. *Runway 05:* 1,500 feet for that end of a runway with only visual approaches.
  - 2. The approach surface extends for a horizontal distance of:
    - a. *Runway 12:* 50,000 feet for all precision instrument runways.
    - b. *Runways 23 and 30:* 10,000 feet for all nonprecision instrument runways.
    - c. *Runway 05:* 5,000 feet for all visual runways.
  - 3. The outer width of an approach zone to an end of a runway will be that width prescribed in this section for the most precise approach existing or planned for that runway end.
- (c) *Height limitations.* Permitted height limitation within the approach zones is the same as the runway end height at the inner edge and increases with horizontal distance outward from the inner edge as follows:
  - 1. *Runway 12:* Permitted height increases one foot vertically for every 50 feet horizontal distance for the first 10,000 feet and then increases vertically for every 40 feet horizontal distance for an additional 40,000 feet for all precision instrument runways.

2. *Runways 23 and 30:* Permitted height increases one foot vertically for every 34 feet horizontal distance for all nonprecision instrument runways.
3. *Runway 05:* Permitted height increases one foot vertically for every 20 feet horizontal distance for all visual runways.

33-33.06. *Transitional zone.*

- (a) *Defined.* The area extending outward from the sides of the primary zones and approach zones connecting them to the horizontal zone.
- (b) *Height limitations.* Height limits within the transitional zone are the same as the primary zone or approach zone at the boundary line where it adjoins and increases at a rate of one foot vertically for every seven feet horizontally, with the horizontal distance measured at right angles to the runway center line and extended center line, until the height matches the height of the horizontal distance of 5,000 feet from the side of the part of the precision approach zone that extends beyond the conical zone.

33-33.07 *Commercial Zone*

In order to facilitate both the function of the Airport and the Emerging Gateway Overlay zoning district along US 92, properties assigned an M-1 Industrial zoning within the Airport Overlay and along US 92 may conduct business with the uses allowed in both the M-1 Industrial and the C-4 Wholesale Commercial Zoning Districts.

33-33.08. *Other areas.* In addition to the height limitations imposed in sections 33-33.02 through 33-33.06 above, no structure or obstruction will be permitted within the jurisdiction of the City of DeLand jurisdiction that would cause a minimum obstruction clearance altitude, a minimum descent altitude or a decision height to be raised.

33-33.09. *Airport land use restrictions.*

- (a) *Use restrictions.* Notwithstanding any other provision of this chapter, no use may be made of land or water within any zones established by this section in such a manner as to interfere with the operation of an airborne aircraft. The following special requirements shall apply to each permitted use:
  1. All lights or illumination used in conjunction with street, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from a public airport or in the vicinity thereof.
  2. No operations from any type shall produce smoke, glare or other visual hazards within three statute miles of any usable runway of a

public airport.

3. No operations from any type shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.
  4. Use of land within the accident potential hazard area shall prohibit high density residential use, schools, hospitals, storage of explosive material, assemblage of large groups of people or any other use that could produce a major catastrophe as a result of an aircraft crash.
- (b) *Restriction on residential uses.* Residential construction shall not be permitted within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.
- (c) *Lighting.* Notwithstanding the preceding provisions in this section, the owner of any structure over 200 feet above ground level shall install lighting in accordance with Federal Aviation Administration Advisory Circular 70-7460-1D and amendments thereto on such structure. Additionally, high intensity white obstruction lights shall be installed on a high structure which exceeds 749 feet above Mean Sea Level. The high intensity white obstruction lights must be in accordance with Federal Aviation Administration Advisory Circular 70-7460-1D and amendments thereto.
- (d) *Landscaping.* Properties along runways or taxiways are exempt from having to comply with landscape requirements contained elsewhere in this chapter. Landscaping may be provided adjacent to the building if they do not interfere with the operation of aircraft. All areas exempt from landscaping requirements must be grassed or maintained in an aesthetic manner.
- (e) *Variances.* Any person desiring to erect or increase the height of any structures, or use his property not in accordance with the regulations prescribed in this section, may apply to the planning board for a variance from such regulations. The planning board may consider no application for variance to the requirements of this section unless a copy of the application has been furnished to the appropriate zoning administrator.
- (f) *Hazard marking and lighting.* Any permit or variance granted shall require the owner to mark and light the structure in accordance with FAA Advisory Circular 70-7460-1D or subsequent revisions. The permit may be conditioned to permit Volusia County or the City of DeLand, at its own expense, to install, operate and maintain such markers and lights as may be necessary to indicate to pilots the presence of an airspace hazard if special conditions so warrant.
- (g) *Airport noise zones.* No person shall sell, lease or offer to sell or lease any

land within the airport noise zone (100 CNR 85dB (A) contour) unless the prospective buyer or lessee has been given the following notice in writing: warning: This land lies beneath the aircraft approach and departure routes for the Sidney H. Taylor/DeLand Municipal Airport and is subject to noise that may be objectionable.

(h) *Bird hazards.*

1. New sanitary landfills shall not be located within 10,000 feet of the nearest point of any runway.
2. All proposed and existing landfills shall be reviewed to determine whether they attract or sustain hazardous bird movements from feeding, water, or roosting areas into or across, the runways or approach and departure patterns of aircraft. The existence of such hazards shall be considered in deciding whether to permit a proposed landfill, and whether to require an existing or proposed landfill to use bird management techniques or other practices to minimize bird hazards to airborne aircraft.

(Ord. No. 2008-08, § 8, 4-7-08; Ord. No. 2008-39, § 8, 9-3-08)

**Editor's note**— Ord. No. 2008-08, § 8, adopted Apr. 7, 2008, repealed the former Art. IV, § 33-33 and enacted a new Art. IV, § 33-33 as set out herein. The former Art. IV, § 33-33 pertained to DeLand Municipal Airport zoning regulations. See the Code Comparative Table for complete derivation.

**Sec. 33-34. - Historic districts and landmarks.**

33-34.01. *Generally.*

- (a) *Statement of intent.* The intent of the following regulations is to serve the best interest of the health, safety, prosperity and welfare of the citizens of DeLand by:
1. Protecting, enhancing and perpetuating historic resources that represent or reflect elements of the city's cultural, social, economic, political and architectural history.
  2. Stabilizing and improving property values through the revitalization of older residential and commercial properties and neighborhoods.
  3. Fostering an awareness and pride in the accomplishments and achievements of the past.
  4. Protecting and enhancing the city's historic attractions to residents, tourists and visitors which in turn serve to stimulate the local economy and draw new business and industry.
  5. Enriching the quality of life in DeLand by fostering knowledge of the

living heritage of the past.

6. Conserving existing housing stock and extending the economic life of housing units through the rehabilitation of such units under housing and neighborhood redevelopment programs.

(b) *Statement of purpose.* The city commission shall identify, evaluate, recognize, preserve and protect historical land archaeological resources within the city limits of DeLand, in the best interest of the health, safety, prosperity and welfare of the citizens of DeLand by:

1. Creating a historic preservation board with the power to effectively administer the duties provided for herein.
2. Developing a process to designate individual properties (buildings, structures, sites, objects) and groups of properties (districts) as historically significant.
3. Protecting the integrity of designated historic resources by requiring a review of proposals to add to, demolish or in any way alter the exterior historic fabric of such resources.
4. Encouraging historic preservation by providing technical assistance and financial incentives.
5. Obtaining certified local government status as provided for in the National Historic Preservation Act of 1966, as amended in 1980 (P.L. 96-515) and as procedures dictate in 36 C.F.R. 61 (1987).

33-34.02. *Local register of historic places.*

(a) *Created.* A Local Register of Historic Places is hereby created as a means of identifying and classifying various sites, buildings, structures, objects, and districts as historic and/or architecturally significant. The local register will be kept by the historic resource coordinator.

(b) *Initiation of placement on the local register.* The historic preservation board may initiate placement of sites, buildings, structures, objects or districts on the local register. In addition, placement may be initiated by the owner of the site, building, structure, object, or area, or, in the case of a district, by the owner of a site, building, structure, object, or area within the proposed district.

(c) *Placement on the local register.* The following procedure shall be followed for placement of sites, buildings, structures, objects, areas, and districts on the local register:

1. A nomination form, available from the city, shall be completed by the applicant and returned to the historic resource coordinator.

2. Upon receipt of a completed nomination form, including necessary documentation, the historic resource coordinator shall place the nomination on the agenda of the next regularly scheduled meeting of the historic preservation board. If the next regularly scheduled meeting of the board is too close at hand to allow for the required notice to be given, the nomination shall be placed on the agenda of the succeeding regularly scheduled meeting.
3. Adequate notice of the historic preservation board's consideration of the nomination shall be provided to the public at large, and to the owner(s) of the nominated property(ies), at least 15 days in advance of the meeting at which the nomination will be considered by the board.
4. The board shall, within 60 days from the date of the meeting at which the nomination is first on the board's agenda, review the nomination and write a recommendation thereon. The recommendation shall include specific findings and conclusions as to why the nomination does or does not meet the appropriate criteria outlined in this section along with any owner's objections to the listing. The recommendation shall also include a map that shows the proposed boundaries for any Historic District and any individual historic property recommended for listing. If the nomination is of a district, the recommendation shall also clearly specify, through the use of maps, lists, or other means, those buildings, objects, or structures which are classified as contributing and noncontributing to the historical significance of the district. If the 60-day period runs and the board has not prepared and sent a recommendation, and the period has not been extended by mutual consent of the applicant and the board, the nomination may be submitted by the applicant directly to the planning board.
5. The nomination form will be processed dependent upon the following criteria:
  - a. An individual property owner of property containing a building, structure or object requesting placement on the local historic register, the nomination form and the board's recommendations shall be sent to the city commission for their action.
  - b. For districts (more than one property) to be designated as such on the local historic register, the nomination forms and the Historic Preservation Board's recommendations will be sent to the planning board for their recommendation, prior to the form being forwarded to the city commission. The notice requirements will be handled as a rezoning application.

(d) *Criteria for listing on the local register.*

1. Any site, building, structure, object or district which is listed on the National Register of Historic Places shall be automatically nominated by the historic preservation board for the local register pursuant to section (c) above.
2. A site, building, structure, object, or district must meet the following criteria before it may be listed on the local register:
  - a. It possesses integrity of location, design setting, materials, workmanship, feeling and association; and
  - b. It is associated with events that have made a significant contribution to the broad patterns of our history; or is associated with the lives of persons significant to our past; or embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or have yielded or may be likely to yield information important to history or prehistory.
3. A property located in district shall be designated as contributing to that district if the property is one, which, by its location, design, setting, materials, workmanship, feeling and association adds to the district's sense of time and place and historical development.
4. A property should be considered noncontributing if the property's integrity of location, design, setting materials, workmanship, feeling and association have been so altered that the overall integrity of the property has been irretrievably lost; or the property was built within the past 50 years, unless a strong justification concerning their historical or architectural merit is given or the historical attributes of the district are considered to be less than 50 years old.

(e) *Effect of listing on local register.*

1. The city manager is authorized to issue and place official markers identifying designated historic properties and districts.
2. Structures and buildings listed individually on the local register or judged as contributing to the character of a district listed on the local register shall be deemed historic and entitled to modified enforcement of the Standard Building Code as provided by Chapter 1, Section 101.5 of the Standard Building Code Congress International, Inc.
3. No demolition, alteration, relocation or construction activities may take place on designated historic properties or within the boundaries of designated Historic Districts except as provided below.

(Ord. No. 2008-39, § 9, 9-3-08)

33-34.03. *Certificates of appropriateness.*

(a) *When required.*

1. A Certificate of Appropriateness shall be required for any of the following activities on properties within designated Historic Districts and individually designated historic properties:
  - a. Any material change or alteration in the exterior appearance of existing buildings objects or structures.
  - b. The movement or relocation of any building object, or structure.
  - c. Any new construction of principal or accessory buildings or structures.
  - d. Disturbance of an archaeological site.
  - e. Division of a tract or parcel of land into two or more lots.
2. Upon designation of a Historic District or individual historic property the designating ordinance shall prescribe those architectural features considered significant to the district or property and the types of regulated work items other than those requiring a city permit, which should be reviewed for appropriateness.
3. For each of the regulated work items listed in the designating ordinance, the following applies:
  - a. *Ordinary maintenance.* If the work constitutes "ordinary maintenance" as defined in Section 33-12., the work may be done without a Certificate of Appropriateness.
  - b. *Staff approval.* If the work is not "ordinary maintenance," but will result in the "original appearance" as defined in Section 33-12., including color and defining architectural details, the Certificate of Appropriateness may be issued by the planning director with consultation by the historic resource coordinator.
  - c. *Board approval.* If the work is not "ordinary maintenance" and will not result in the "original appearance," a Certificate of Appropriateness must be obtained from the historic preservation board before the work may be done.
4. A Certificate of Appropriateness shall be a prerequisite to the issuance of any other permits required by law. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits or approvals required by the City of DeLand.

A building permit or other municipal permit shall be invalid if it is obtained without a Certificate of Appropriateness required for the proposed work.

(b) *Criteria for issuing.*

1. The decision on all certificates of appropriateness, except those for demolition, shall be guided by the Secretary of the Interior's General Standards for Preservation Projects and specific standards for rehabilitation stated as follows:
  - a. Every reasonable effort shall be made to provide a compatible use for a property, which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
  - b. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
  - c. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
  - d. Changes, which may have taken place in the course of time, are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
  - e. Distinctive stylistic features or examples of skilled craftsmanship, which characterize a building, structure, or site, shall be treated with sensitivity.
  - f. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
  - g. The surface cleaning of structure shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

- h. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any acquisition, protection, stabilization, preservation, demolition, rehabilitation, restoration, or reconstruction project.
  - i. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.
  - j. Wherever possible, new additions or alteration to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
  - k. The use of integral color, rather than applied color, is encouraged in new construction and in restoration or preservation projects. Colors, whether integral or applied, should be appropriate to the architecture.
2. In approving or denying an application for a Certificate of Appropriateness for new construction, the board shall require the following features of the proposed building be visually compatible with the existing contributing structures in a designated Historic District:
- a. Height;
  - b. Scale;
  - c. Massing;
  - d. Setbacks;
  - e. Fenestration;
  - f. Roof Shape;
  - g. Use of materials;
  - h. Directional expression;
  - i. Style;
  - j. Site plan.
3. In addition to the guidelines provided in paragraph 1. above, issuance of certificates of appropriateness for relocations shall be guided by the following factors:

- a. The historic character and aesthetic interest the building, structure, or object contributes to its present setting;
  - b. Whether there are definite plans for the area to be vacated and the effect of those plans on the character of the surrounding area;
  - c. Whether the building, structure, or object can be moved without significant damage to its physical integrity; and
  - d. Whether the proposed relocation area is compatible with the historical and architectural character of the building, structure or object.
4. Issuance of a Certificate of Appropriateness for any division of a tract or parcel of land into two or more lots shall be guided by these criteria:
- a. To what extent the proposed division will disrupt the historic pattern of development;
  - b. The intended use of the proposed division;
  - c. The compatibility of the use of the proposed division with the surrounding Historic District; and
  - d. To what extent the owner of the property will experience an economic hardship if the request is denied.

(c) *Procedure.*

1. A person wishing to undertake any of the actions specified in subsection (a) above shall file an application for a Certificate of Appropriateness and supporting documents with the historic resource coordinator.
2. The prospective applicant shall confer with the historic resource coordinator concerning the nature of the proposed action and requirements related to it. The applicant shall be advised of the nature and detail of the plans, designs, photographs, reports or other exhibits required to be submitted with the application. Such advice shall not preclude the historic preservation board from requiring additional material prior to making its determination in the case. Following the conference with the historic resource coordinator, a preapplication conference shall be held with the historic preservation board if requested by the applicant.
3. Upon receipt of a completed application and all required submittals and fees, the historic resource coordinator shall place the application on the agenda of the historic preservation board within thirty days. Upon mutual agreement between the applicant and the historic

resource coordinator, the application may be set for hearing at a meeting later than the next regularly scheduled meeting.

4. No less than seven days, but not more than 30 days, prior to the meeting at which the application is to be heard, the historic resource coordinator shall give the following notice:
  - a. Written notice of the time and place of the meeting shall be sent to the applicant and all persons or organizations filing written requests.
  - b. One advertised notice in a newspaper of general circulation or a notice posted upon the property for which the Certificate of Appropriateness has been applied. Such posted notice shall be at least 22 inches by 28 inches in size, and shall be posted within ten feet of the right-of-way and are [be] visible from the right-of-way. One notice shall be posted for each 200 feet of road frontage along all roadways bordering the property.
5. The hearing shall be held at the time and place indicated in the notice. The decision of the historic preservation board shall be made at the hearing.
6. The historic preservation board shall use the criteria set forth in subsection (b) above to review the completed application and accompanying submittals. After completing the review of the application and fulfilling the public notice and hearing requirements set forth above, the board shall take one of the following actions:
  - a. Grant the Certificate of Appropriateness with an immediate effective date;
  - b. Grant the Certificate of Appropriateness with special modifications and conditions;
  - c. Delay granting the Certificate of Appropriateness for a demolition for a period of not less than 30 days nor more than 60 days;
  - d. Deny the Certificate of Appropriateness.
7. The historic preservation board shall make written findings and conclusions that specifically relate the criteria for granting certificates of appropriateness. All parties shall be given the opportunity to present evidence through documents, exhibits, testimony, or other means. All parties shall be given the opportunity to rebut evidence through cross-examination or other means.
8. The historic resource coordinator shall record and keep records of all meetings. The records shall include the vote, absence, or abstention of

each member upon each question, all official actions of the historic preservation board, and the findings and conclusions of the board. All records shall be filed with the historic resource coordinator.

9. Any person aggrieved by a decision reached by the historic preservation board may appeal the decision to the city commission.
10. No work for which a Certificate of Appropriateness is required may be undertaken unless a Certificate of Appropriateness authorizing the work is conspicuously posted on the property where the work is to be performed.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

**Sec. 33-35. - Demolition.**

33-35.01. *Generally.*

- (a) *Purpose and intent.* The purpose of this section is to ensure that historic properties are protected from neglect or premature demolition by providing the following procedure for review.

No demolition permit affecting a building or structure in a designated Historic District, a designated historic building or structure, or a building or structure constructed prior to 1950 shall be issued until the applicant has demonstrated that no other feasible alternative to demolition can be found.

1. Issuance of demolition permit shall be guided by the following factors:
  - a. The historic or architectural significance of the building, structure, or object;
  - b. The importance of the building, structure, or object to the ambiance of a district;
  - c. The difficulty or the impossibility of reproducing such a building, structure or object because of its design, texture, material, detail, or unique location;
  - d. Whether the building, structure, or object is one of the last remaining examples of its kind in the neighborhood, the county, or the region;
  - e. Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and the effect of those plans on the character of the surrounding properties;

- f. Whether reasonable measures can be taken to save the building, structure, or object from collapse; and
- g. Whether the building, structure, or object is capable of earning reasonable economic return on its value

(b) *Procedure*

1. A person wishing to undertake a demolition shall file an application for a demolition permit and supporting documents to the building department.
  - a. The supporting documents to be submitted include demolition plan that includes:
    1. A written description and/or graphic display of the buildings and/or portions of the buildings to be demolished
    2. A description of the means of demolition to be utilized
    3. The expected date for demolition to begin
    4. The estimated number of days necessary to complete the demolition and remove the resulting debris. The actual time of demolition, cleanup and where applicable, regrading and revegetation shall not exceed 100 working days, exclusive of Saturdays, Sundays and holidays.
    5. Plans for Redevelopment

Demolition of historic buildings without definitive plans for redevelopment is discouraged. This factor evaluates the proposed reuse of the property if the proposed demolition is carried out and what the effect of those plans on the character of the surrounding area would be.
2. The applicant shall confer with the historic resource coordinator concerning the nature of the proposed action and requirements related to it. The applicant shall be advised of the nature and detail of the plans, designs, photographs, reports or other exhibits required to be submitted with the application. Such advice shall not preclude the historic preservation board or the city commission from requiring additional materials prior to making its determination in the case. Following the conference with the historic resource coordinator, a pre-application conference shall be held with the historic preservation board if requested by the applicant.

3. Upon receipt of a completed application and all required submittals and fees, the historic resource coordinator shall place the application on the agenda of the historic preservation board within 30 days.
4. No less than seven days, but not more than 30 days, prior to the meeting at which the application is to be heard, the historic resource coordinator shall give the following notice:
  - a. Written notice of the time and place of the meeting shall be sent to the applicant and all persons or organizations filing written requests.
  - b. One advertised notice in a newspaper of general circulation or a notice posted upon the property for which the Certificate of Appropriateness has been applied. Such posted notice shall be at least 22 inches by 28 inches in size, and shall be posted within ten feet of the right-of-way and are [be] visible from the right-of-way. One notice shall be posted for each 200 feet of road frontage along all roadways bordering the property.
5. The hearing shall be held at the time and place indicated in the notice. The recommendation of the historic preservation board shall be made at the hearing.
6. The historic preservation board shall use the criteria set forth in subsection (a) above to review the completed application and accompanying submittals. After completing the review of the application and fulfilling the public notice and hearing requirements set forth above, the board shall forward its recommendation to the city commission or
7. The city commission shall use the criteria set forth in subsection (a) above to review the completed application and accompanying submittals. After completing the review of the application, the city commission shall take one of the following actions:
  - a. Approve the demolition with an immediate effective date;
  - b. Approve the demolition with special modifications and conditions;
  - c. Delay the approval for demolition for a period of not less than 30 days nor more than 60 days to request additional information;

d. Deny the Request for demolition.

8. No work for which a Building Permit or Demolition Permit is required may be undertaken unless a Building Permit authorizing the work is conspicuously posted on the property where the work is to be performed.
9. Expiration. Any demolition which has been approved pursuant to the provisions of this section shall expire 12 months from the date of issuance if the work authorized is not commenced within this period unless otherwise extended by the city commission.

33-35.02. *Demolition by Neglect*

*Responsibility of owner.* Every owner of a property within a designated Historic District or property listed on the local register shall keep in good repair:

- (1) All of the exterior portions of such buildings or structures;
- (2) All interior portions thereof which, if not so maintained, may cause such buildings or structures to deteriorate or to become damaged or otherwise fall into a state of disrepair; and
- (3) In addition, where the historic resource is an archaeological site, the owner shall be required to maintain his property in such a manner as not to adversely affect the archaeological integrity of the site.

33-35.03. *Determining neglect.* In the event the board determines that a property with a designated Historic District or a designated historic resource is in the course of being "demolished by neglect", the city shall notify the owner of record of such preliminary findings, stating the reasons therefore. If the owner or tenant fails to take action, the building official shall initiate proceedings through the City of DeLand Code Enforcement Magistrate under the authority of applicable laws and regulations.

33-35.04. *Notification and enforcement.* Where the Magistrate determines that properties within a designated Historic District or designated historic resource lack maintenance and repair to such an extent as to detract from the desirable character of the Historic District or historic resource, the board shall notify the owner of record of such preliminary findings, stating the reasons therefore. The board shall request a meeting with the owner or tenant of the property that is not being adequately maintained, and the board shall present ways to improve the condition of the property. If the owner or tenant fails to take action, the board may notify the building official to institute proceedings through the City of DeLand Code Enforcement Magistrate under authority of applicable laws and regulations.

33-35.05. *Emergency conditions applicable to this section.* The building official shall immediately notify the historic resource coordinator of cases where there are emergency conditions dangerous to life, health or property affecting a

building or structure in a designated Historic District, a designated historic building or structure, or a building or structure constructed before 1950. Notification to historic resource coordinator shall consist of a report from a building code inspector describing the dangerous conditions and any other documentation that the historic resource coordinator shall require in order to prepare a report, oral or written, to present to the city commission. After consultation with the historic resource coordinator, the chief building official may order the remedying of the dangerous conditions without the approval of the city commission.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

**Sec. 33-36. - Gateway Overlay Districts.**

33-36.01. *Purpose and intent.* The purpose of this section is to ensure that the designated gateway corridors of the City of DeLand are developed in a manner which:

- (1) Ensures that the main streets and entryways to the City of DeLand are developed into well-landscaped, scenic gateways;
- (2) Provides uniform design standards to promote high quality new development;
- (3) Promotes redevelopment and adaptive reuse of existing properties in a manner consistent with the historic character of the city;
- (4) Prevents visual pollution caused by unplanned and uncoordinated uses, buildings and structures;
- (5) Utilizes natural and transplanted trees to shade and soften the appearance of nonresidential parking areas; and
- (6) Maximizes pedestrian access and safety.

33-36.02. *Applicability.* Except as noted, the standards within the Gateway Overlay Districts shall apply to all properties which are within the corporate limits of the City of DeLand, are located within the geographic areas described below, or have frontage along any of the roadways identified below or which are located within 600 feet of any road right-of-ways identified below. As properties are annexed into the corporate limits of the City of DeLand and are located within the geographic boundaries of the Gateway Overlay District, the development standards of the Gateway Overlay District shall be applicable and shall supersede any conflicting regulations or development standards of this Code.

These Gateway Overlay District regulations are intended to supplement all of the regulations contained in this chapter. Any regulations that are more restrictive shall supersede those of the Gateway Overlay District.

33-36.03. *Boundaries of the Gateway Overlay Districts.* The Gateway

Overlay District is divided into three subdistricts. The subdistrict boundaries are as follows:

- (a) *Core Gateway District.* All areas encompassed by or located within (per section 33-36.02 above) the following described areas are included in the core Gateway District:

- Plymouth Avenue on the north, between Boundary and Hill Avenues;
- Hill Avenue on the east, between Plymouth and Beresford Avenues;
- Beresford Avenue on the south, between Hill and Boundary Avenues;
- Boundary Avenue on the west, between Beresford and Plymouth Avenues.

- (b) *Redevelopment Gateway District.* The following roadway segments and properties located thereon (per section 33-36.02 above) are included in the Redevelopment Gateway District:

North Woodland Boulevard from Plymouth Avenue to U.S. 92;

East New York Avenue from Hill Avenue to Kepler Road;

South Woodland Avenue from Beresford Avenue to S.R. 472;

West New York Avenue from Boundary Avenue to SR 15A;

S.R. 15A from Beresford Avenue to Plymouth Avenue.

- (c) *Emerging Gateway District.* The following roadway segments and properties located thereon (per section 33-36.02 above) are included in the Emerging Gateway District:

Kepler Road and Martin Luther King Boulevard from U.S. 92 to S.R. 472;

East New York Avenue (S.R. 44) from Kepler Road to Interstate 4;

West New York Avenue (S.R. 44) from S.R. 15A to the CSX Railroad;

S.R. 15A from Plymouth Avenue to U.S. 17;

S.R. 15A from Beresford Avenue to U.S. 17-92;

International Speedway Boulevard (U.S. 92) from U.S. 17 to Old Daytona Road;

C.R. 92 from U.S. 17 to S.R. 15A;

Woodland Boulevard (U.S. 17) from the intersection of US 17 and International Speedway Boulevard north to S.R. 15A.

Orange Camp Road from U.S. 17/92 to Interstate 4;

County Road 4139 from S.R. 44 to Interstate 4;

Taylor Road from U.S. 17/92 to Martin Luther King Boulevard;

Stone Street from Plymouth Avenue north to C.R. 92;

I-4 from 600 feet north of S.R. 44 to 600 feet south of Orange Camp Road.

(Ord. No. 2008-08, § 9, 4-7-08)

33-36.04. *Signs in the Gateway Overlay Districts.* The following sign regulations shall apply to properties within the Gateway Overlay Districts and shall supersede the regulations contained in article VII of this chapter when such regulations conflict. For complete sign regulations and for areas outside the Gateway Overlay District, refer to article VII of this chapter.

(a) *Core Gateway District.* In the C-2AH zoned area of the Core Gateway District overlay, all ground-mounted signs, including, but not limited to, pole signs and monument signs, are specifically prohibited. All permitted signage shall comport with the historic character of the area in accordance with 33-75.04(d) Historic Signs.

1. *Ground-mounted signs.* In all other areas of the Core Gateway Overlay District other than the C-2AH, ground-mounted signs are permitted; however, pole signs shall be sheathed or covered in a manner, which conceals the poles.

a. *Size of sign.*

1. Any property having a total area of less than two and one-half acres may have one double-faced sign per street frontage, with a maximum of 48 square feet of sign area per side.

2. Any property having a total area of two and one-half acres to five acres may have one double-faced sign per street frontage, with a maximum of 68 square feet of sign area per side.

3. Any property having a total area of more than five acres may have one double-faced sign per street frontage, with a maximum of 128 square feet of sign area per side.

b. *Height of sign.* In areas that permit ground signs, the signs may not exceed 12 feet in height, including base, sign area, supporting structure, and/or architectural embellishments.

c. *Building signs.* Building signs are permitted and shall comply with the relevant portions of article VII of this chapter.

d. Due to site limitations staff, the technical review committee,

planning board or the city commission, depending on the type of site plan, may allow modifications to the setbacks from the property line for ground signs that still meet the intent of the regulations.

- (b) *Redevelopment Gateway District.* In the Redevelopment Gateway District, ground-mounted signs are permitted; however, pole-mounted signs shall be sheathed or covered in a manner which conceals the poles.

1. Ground-mounted monument signs shall comply with the following criteria:

a. *Size of sign.*

1. Any property having a total area of less than two and one-half acres may have one double-faced sign per street frontage, with a maximum of 48 square feet of sign area per side.
2. Any property having a total area of two and one-half acres to five acres may have one double-faced sign per street frontage, with a maximum of 68 square feet of sign area per side.
3. Any property having a total area of more than five acres may have one double-faced sign per street frontage, with a maximum of 128 square feet of sign area per side.
4. Any property having a total area of more than twenty acres may have one double-faced sign per street frontage, with a maximum of 150 square feet of sign area per side.

b. *Height of sign.* The maximum height of any monument sign shall be 16 feet, including base, sign area, supporting structure, and/or architectural embellishments.

c. *Building signs.* Building signs are permitted and shall comply with the relevant portions of article VII of this chapter.

- (c) *Emerging Gateway District.* In the emerging Gateway District, ground-mounted monument signs are permitted; however, pole-mounted signs are specifically prohibited.

1. Ground-mounted monument signs shall comply with the following criteria:

a. *Size of sign.*

1. Any property having a total area of less than two and one-half acres may have one double-faced sign per street frontage, with a maximum of 48 square feet of sign area per side.

2. Any property having a total area of two and one-half acres to five acres may have one double-faced sign per street frontage, with a maximum of 68 square feet of sign area per side.
  3. Any property having a total area of more than five acres may have one double-faced sign per street frontage, with a maximum of 128 square feet of sign area per side.
  4. Any property having a total area of more than twenty acres may have one double-faced sign per street frontage, with a maximum of 150 square feet of sign area per side.
- b. *Height of sign.* The maximum height of any monument sign shall be eight feet, including base, sign area, supporting structure, and/or architectural embellishments.
- c. *Building signs.* Building signs are permitted and shall comply with the relevant portions of article VII of this chapter.

33-36.05. *Landscaping in the Gateway Overlay Districts.* The following landscaping regulations shall apply to properties within the Gateway Overlay Districts and shall supplement the regulations contained in article VIII of this chapter, except for projects that involve the redevelopment of the property, refer to section 33-92.01(c) Redevelopment. For complete landscaping regulations and for areas outside the Gateway Overlay District, refer to article VIII of this chapter.

(a) *Landscaping in the Core Gateway District.* In order to maintain the character of the core area and provide for future development that will enhance the appearance within the core area, the city will require the following standards to apply to all new development and redevelopment, excluding parcels zoned C-2A. (These requirements supplement the existing landscaping standards contained in section 33-92.02.):

1. *Landscape buffer requirements.*
  - a. A minimum 15-foot-wide landscape buffer shall be required along the overlay street frontages.
  - b. The buffer shall be planted with material appearing on the city's approved plant list.
  - c. Canopy trees shall have a minimum four-inch diameter at breast height (DBH) and 14 feet in height at planting. The number of trees shall be based on meeting the requirements of Buffer Standard "A" along the overlay street frontage. The technical review committee will determine the actual spacing of the vegetation, which may include the grouping of trees.
  - d. The number and spacing of understory trees and shrubs must meet

the requirements of section 33-92.02(b) Buffer Zones.

2. *Internal landscaping requirements.*

- a. All nonresidential parking lots shall have internal landscaping equaling ten percent of the total vehicle use area, including driveways, parking spaces, and vehicle storage and display areas. Where a pedestrian parking access pathway is required, the access pathway may be included in the required landscaping area.
- b. The internal landscape area(s) and the canopy trees shall be located in and around vehicle use areas as described in section 33-92.02(a) vehicle use areas, interior.
- c. If parking abuts the landscape buffer, a shrub hedge shall be arranged or planted so that a minimum height of three feet will be attained within one year of planting and so as to screen a minimum of 75 percent of the parking area. A wall or berm may be used in conjunction with the hedge to meet the screening requirement.

3. *Administration.*

- a. Single-family lots may be exempt from these requirements if they are not to be utilized as businesses or do not abut onto a major roadway.
- b. The city forester may waive whatever portion of the tree planting that may be necessary if it is determined that the requirements established above would prevent the landscaping materials to reach the proper level of mature growth. The amount waived will be considered as replacement trees and in lieu of planting, the Applicant will make a monetary contribution to the "Tree Replacement Reserve Account" per section 33-57.06(b)5.

- (b) *Landscaping in the Redevelopment Corridor.* In order to improve the character of the Redevelopment Corridor area and provide for future development that will enhance the appearance within the area, the city will require the following standards apply to all new development and redevelopment. (These requirements supplement the existing landscaping standards contained in section 33-92.02.):

1. *Landscape buffer requirements.*

- a. A minimum 30-foot-wide landscape buffer shall be required along the overlay street frontages.
- b. The buffer shall be planted with material appearing on the city's approved plant list.
- c. Canopy trees shall have a minimum four-inch diameter at breast

height (DBH) and 14 feet in height at planting. The number of trees shall be based on meeting the requirements of Buffer Standard "D" along the overlay street frontage. The technical review committee will determine the actual spacing of the vegetation, which may include the grouping of trees.

- d. The number and spacing of understory trees and shrubs must meet the requirements of section 33-92.02(b) Buffer Zones.

2. *Internal landscaping requirements.*

- a. All nonresidential parking lots shall have internal landscaping equaling ten percent of the total vehicle use area, including driveways, parking spaces, and vehicle storage and display areas. Where a pedestrian parking access pathway is required, the access pathway may be included in the required landscaping volume.
- b. The internal landscape area(s) and the canopy trees shall be located in and around vehicle use areas.
- c. If parking abuts the landscape buffer, a shrub hedge shall be arranged or planted so that a minimum height of three feet will be attained within one year of planting and so as to screen a minimum of 75 percent of the parking area. A wall or berm may be used in conjunction with the hedge to meet the screening requirement.

3. *Administration.*

- a. Single-family lots may be exempt from these requirements if they are not to be utilized as businesses or do not abut onto a major roadway.
- b. The city forester may waive whatever portion of the tree planting that may be necessary if it is determined that the requirements established above would prevent the landscaping materials to reach the proper level of mature growth. The amount waived will be considered as replacement trees and in lieu of planting; the Applicant will make a monetary contribution to the "Tree Replacement Reserve Account" per section 33-57.06(b)5.

- (c) *Landscaping in the Emerging Corridor.* In order to maintain the character of the Emerging Corridor area and provide for future development that will enhance the appearance within the area, the city will require the following standards apply to all new development and redevelopment. (These requirements supplement the existing landscaping standards contained in section 33-92.02.):

1. *Landscape buffer requirements.*

- a. A minimum 40-foot-wide landscape buffer shall be required along the overlay street frontages.
- b. The buffer shall be planted with material appearing on the city's approved plant list.
- c. Canopy trees shall have a minimum four-inch diameter at breast height (DBH) and 14 feet in height at planting. The number of trees shall be based on meeting the requirements of Buffer Standard "D" along the overlay street frontage. The technical review committee will determine the actual spacing of the vegetation, which may include the grouping of trees.
- d. Residential uses shall utilize a six-foot decorative wall as part of the landscape buffer requirements. This wall shall be no closer than 20 feet to the right-of-way and shall include landscape material in between the wall and right-of-way.
- e. Nonresidential uses that select to use a decorative wall shall not place the wall between the landscape buffer and the right-of-way.

2. *Internal landscaping requirements.*

- a. All nonresidential parking lots shall have internal landscaping equaling ten percent of the total vehicle use area, including driveways, parking spaces, and vehicle storage and display areas. Where a pedestrian parking access pathway is required, the access pathway may be included in the required landscaping volume.
- b. The internal landscape area(s) and the canopy trees shall be located in and around vehicle use areas.
- c. If parking abuts the landscape buffer, a shrub hedge shall be arranged or planted so that a minimum height of three feet will be attained within one year of planting and so as to screen a minimum of 75 percent of the parking area. A wall or berm may be used in conjunction with the hedge to meet the screening requirement.

3. *Administration.*

- a. Single-family lots may be exempt from these requirements if they are not to be utilized as businesses or do not abut onto a major roadway.
- b. The city forester may waive whatever portion of the tree planting that may be necessary if it is determined that the requirements established above would prevent the landscaping materials to reach the proper level of mature growth. The amount waived will be considered as replacement trees and in lieu of planting; the

Applicant will make a monetary contribution to the "Tree Replacement Reserve Account" per section 33-57.06(b)5.

33-36.06. *Sidewalks*

Sidewalks constructed in accordance with Section 33-90.04 shall be installed on all properties making improvements requiring a site plan and on all properties being redeveloped, or initially developed within the Gateway Overlay Districts.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02; Ord. No. 2008-08, § 10, 11, 4-7-08)

**33-37 – Medical Services Overlay District.**

33-37.01. *Generally.*

(a) *Statement of intent.* The intent of the following regulations is to serve the best interest of the health, safety, prosperity and welfare of the citizens of DeLand by:

1. Protecting and enhancing DeLand's hospital services.
2. Allowing for the concentration of medical facilities and related uses in a campus like setting to enable the provision of a wide range of medical services.
3. Promoting fitness and physical well being and providing for the development and advancement of medical science.
4. Creating a centralized location comprised of the land around the DeLand Hospital for the promotion of medical sciences and healthcare.

(b) *Purpose*

1. The Medical Services Overlay District (MSOD) is intended to provide a method for consideration and approval of development unique to the medical services industry not provided for in the zoning districts otherwise established by this chapter.
2. The MSOD district is designed to allow an applicant to submit a proposal for a mixture of uses applicable to the practice and support of medical sciences.

(c) *Voluntary use.* The MSOD district shall be a voluntary process commenced by an applicant. The city shall not initiate a land use change to require implementation of MSOD criteria on privately owned property. Applicants desiring to take advantage of this overlay must be processed through the city's planning process.

33-37.02. *Permitted uses.*

The following uses shall be permitted within a medical services overlay, consistent with the Future Land Use designation assigned to specific parcels:

(a) *Medical and health care uses.*

1. Primary medical uses including hospitals, outpatient clinics, continuing/long-term care services, hospice services, laboratories, medical research facilities, urgent or emergency medical services, offices of doctors, physical therapists, dentists and other health care providers.
2. Secondary medical uses including medical support facilities and similar uses, including but not limited to administrative offices, social service providers including counseling centers, fitness and rehabilitation centers including sports medicine and training facilities, health care related retail (i.e., pharmacy, medical supplies, medical apparel and equipment, miscellaneous retail trade including gift stores, bookstores, newsstands, florist, jewelry, video sales/rentals, and other retail ancillary to and located within a medical services facility, cafeterias, food and laundry and services located within, dependent on and directly related to a medical services facility.
3. Medical support uses including short-term residential uses dependent upon or directly related to medical care, convalescent care facilities, skilled nursing facilities, group homes for the disabled and overnight accommodations, child and adult care services, including respite care, educational and meeting facilities and staff sleeping quarters.

(b) *Conditional uses.*

The following uses require compliance with specific conditions for approval:

1. Medical helicopter landing pad:
  - a. Refueling tanks, services or storage of helicopters are not permitted on-site,
  - b. The landing pad meets the recommendation of Florida Department of Transportation Aviation Division and Federal Aviation Administration,
  - c. Uses shall be limited to emergency medical use only, and
  - d. The helipad shall be sited no closer than one hundred feet from any right-of-way or non-residential property boundary and 500 feet from any residential property boundary.

2. Facilities for the treatment or temporary storage of biomedical, radioactive and hazardous waste generated within the overall district;
  - a. Provided no material may be transported to the site from other facilities for storage or treatment purposes,
  - b. The facility is located within or directly adjacent to a primary care facility and is permitted and operated in accordance with all federal state and local regulations governing the storage and treatment of medical waste, and
  - c. The facility may not be sited within 1,000 feet of any residential property boundary.
3. Vehicle maintenance facility providing:
  - a. The facility is an accessory to a primary medical facility,
  - b. Services are not available to the general public, and as such are limited to staff and medical use vehicles,
  - c. The services provided are limited to maintenance only and shall not include repair,
  - d. Fuel tanks and overnight vehicle storage are prohibited, and
  - e. Service activities are conducted indoors and vehicles awaiting service or pick-up and, therefore not currently inside are contained within a minimum six foot solid walled opaque (excluding screened chain link fence or similar) enclosure and are not visible from any right-of-way or use other than primary medical uses.
4. General support uses including stand alone restaurants not serving alcohol and without drive-through facilities, floral shops, gourmet food shops (no preparation on premises), bicycle sales and repair, hair dressers and spas, dry cleaning and laundry collection shops (no on-site processing), fitness and wellness centers, local parks including fitness trails, hotels and conference centers (abutting US 92 only), financial institutions, utilities and public facilities, accessory parking and uses listed in the P-1 Zoning District.
5. Shared access common ground pocket neighborhoods
  - a. Each neighborhood shall be limited to no less than eight but no greater

than 12 clustered single family cottages, bungalow units, townhomes or condominiums and at least one, but no more than two, common utility buildings per acre. Townhomes and condominiums shall be limited to a maximum of four units per building. All units shall be pedestrian oriented and fronted on a shared, minimum 400 square feet, common landscaped green space constructed in a manner prohibiting vehicle access,

- b. Each community shall create a homeowners association which will collect such fees as necessary to maintain all shared landscaping, buffers, parking, common lighting, shared utility buildings and access sidewalks, bike path, emergency vehicle access, alternative vehicle access (where present) and roadway.
- c. Dwellings shall be no less than 800, but no greater than 1,200 square feet with front and rear yard setbacks of at least ten feet and side yard setbacks of five feet for detached units and seven feet and six inches for attached unit buildings. The space between dwellings shall be no less than ten feet for detached units and no less than fifteen feet for attached unit buildings.
- d. Dwellings shall be single or one and one half story loft style homes. Second floors shall be no greater than half the square footage of the first floor,
- e. All dwelling shall meet the city Community Design Standards and, at a minimum, the Florida Green Building Coalition, Florida Green Home Standard and Florida Water Wise Landscaping Standard for residential development,
- f. One parking space shall be installed per unit, two guest stalls shall be installed per development and a minimum of one handicapped stall and access pathway shall be installed per development
- g. Parking shall be accessed by a shared roadway connecting the development to the primary roadway and shall be limited to one or two shared lots located on the perimeter of the pocket neighborhood in a manner which does not intrude on the central shared green space.
- h. Parking may be covered; however such covering must match and blend unobtrusively with the architectural style of the dwelling units.
- i. Neighborhood access roads shall include a bicycle lane and an accompanying but separate pedestrian walkway.

- j. All units shall have front porches which shall be connected to the shared green space, other units, parking and street by paved sidewalks. All pathways shall be down-lit in a manner which does not intrude upon the porches, homes or sky but provides safe passage. All lighting shall be on automated such that lights are on only as needed.
  - k. Each neighborhood shall be designed to promote a sense of shared community, however each unit shall be designed to insure the privacy of the unit's interior.
  - l. The development shall provide appropriately hardened non-paved access for emergency vehicles along the development's perimeter in a manner which allows emergency service to any unit not accessible by shared parking or paved road.
  - m. Dwelling units may include an enclosed attached mini garage at the rear of each unit to house an electric powered low speed vehicle (LSV), such as an unmodified golf cart, electric scooter, or similar. LSV access shall be by paved LSV pathway. All mini garages and paved LSV pathways shall be constructed in a manner which prohibits automobile and truck use.
6. Except as otherwise noted, the site development restrictions shall be as follows:

Minimum area for newly created non-residential lots	25,000 square feet
Minimum area for newly created detached residential lots	3,000 square feet
Minimum area for newly created attached Single Family or condominium lots	2,500 square feet per unit
Minimum setback to interior street	15 feet
Minimum setback to exterior street. All buildings shall be street fronting with parking to the side and rear	10 feet
Minimum distance between detached cottages or bungalows	10 feet
Minimum distance between attached Single	15 feet

Family or condominium buildings	
Maximum height	65 feet <sup>1</sup>
Maximum lot coverage	70% <sup>2</sup>

1. Except abutting existing residential developments which shall have a set-back of 35 feet, and/or as provisioned by previously stated use condition.
  2. Except as provisioned by previously stated use condition and, with approval by the city, where common areas are provided for pocket developments.
7. All buildings within the MSOD are subject to review and approval by in accordance with the DeLand Community Design Standards. Additionally the following criteria will be considered:
- a. The campus should have accessible pedestrian connections beyond standard sidewalks along the street. Special attention should be paid to crosswalks, connections between parking lots serving adjacent uses and interior walkway connections.
  - b. Minimum landscaping and buffers shall be as required within Article VIII; provided however, that additional landscaping may be required by the technical review committee, planning board and/or city commission to achieve the following effects:
    1. Effective screening of parking areas and eliminating monotony of parking areas;
    2. Effective buffering of adjacent residential uses;
    3. Enhance the building architecture and on-site landscaping;
    4. Coordinate with the streetscape plantings required as part of the master plan.
  - c. Building Design. There should be continuity of character and building materials throughout the development to enhance a campus setting. Building design shall comply with Article VIII Community Design Standards. Where possible, buildings should be designed to screen parking and provide useful courtyard settings for users of the facilities.
  - d. All load and unloading facilities shall be provided off-street and appropriately.
8. Transportation management program.

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- a. Medical uses are high traffic generating uses. Reducing the number of trips to the development creates a benefit to the city through less demand on the transportation system. The employee parking component of each use may be reduced by up to twenty percent if the employer establishes a permanent commuter trip reduction program that offers employees incentives such as transit passes, shuttle services, car pool incentives or other similar programs to reduce the number of single occupant vehicles traveling to and from the site.
- b. Excluding city or county regional roadways, speed limits shall be no greater than 35 miles per hour to accommodate LSV use. All LSVs must meet the minimum equipment standards established by Florida Statute. LSVs may not be operated between sundown and sunrise.

33-37.03 *Criteria and standards for approval.*

- (a) *Minimum conditions for approval.* The approval of development utilizing the MSOD overlay may not be approved unless the following minimum conditions are met:
  1. The minimum size of a proposed development shall be six acres, of which five acres shall be primary medical, secondary medical that included support uses and/or medical support uses. No development of general support and/or conditional uses may occur until 30 percent of the development has been completed utilizing primary, secondary and/or medical support medical uses.
  2. Minimum setbacks at the perimeter of the development shall be equal to those of the abutting districts. No two story buildings shall be permitted abutting currently developed residential property.
  3. The development shall be consistent with the DeLand Comprehensive Plan, unless a corresponding amendment to the Comprehensive Plan is also adopted.
  4. Developments within the MSOD must be interconnected and shall share common access. All roadways shall include bicycle lanes and sidewalks.
  5. All development utilizing the MSOD overlay shall be governed by a master development plan. The master development plan shall constitute a binding site plan and shall include the following:
    - a. A transportation and circulation plan;
    - b. A phasing plan for site improvements, landscaping and services;

c. General building locations and types, access points and circulation within the overlay area.

(b) *Internal compatibility.* All land uses within the proposed development shall be compatible with other proposed uses. The planning board and the city commission shall consider the following factors in judging internal compatibility:

1. The streetscape.
2. The existence or absence of, and the location of, open spaces, plazas, recreational areas and common areas.
3. The use of existing and proposed landscaping.
4. The treatment of pedestrian ways.
5. Focal points and vistas.
6. The use of the topography, physical environment and other natural features.
7. Traffic and pedestrian circulation pattern.
8. The use and variety of building setback lines, separations and buffering.
9. The use and variety of building groupings.
10. The use and variety of building sizes and architectural styles.
11. The use and variety of materials.
12. The separation and buffering of parking areas and sections of parking areas.
13. The variety and design of dwelling types.
14. The particular land uses proposed and the conditions and limitations thereon.
15. The form of ownership proposed for various uses.
16. Any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of any proposed use within the proposed development.

(c) *External compatibility.* All proposed land uses shall be compatible with existing and planned uses of properties surrounding the proposed development. The planning board and the city commission shall consider

the following factors in judging external compatibility:

1. All of those factors listed in the preceding section, with particular attention to those areas of the development located on or near its perimeter and the conditions and limitations thereon.
2. The particular uses proposed near the development perimeter and the conditions and limitations on those uses.
3. The type, number and location of surrounding external uses.
4. The Comprehensive Plan goals and objectives and zoning regulations for surrounding external uses.
5. Any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of lands surrounding the proposed development and any existing or planned use of such lands.

(d) *Intensity of development.* The residential density and intensity of use of a development plan shall have no undue adverse impact upon the physical and environmental characteristics of the site and surrounding lands. Within the policy limitations of the Comprehensive Plan, the permitted residential density and intensity of use in a proposed development may be adjusted upward or downward in consideration of the following factors:

1. The location of various proposed uses within the development and the degree of compatibility of such uses with each other and with surrounding uses.
2. The amount and type of protection provided for the safety, habitability and privacy of land uses both internal and external to the development.
3. The existing density and intensity of use of surrounding lands.
4. The availability and location of utilities services and public facilities and services.
5. The amount and size of open spaces, plazas, common areas and recreation areas.
6. The use of energy-saving techniques and devices, including sun and wind orientation.
7. The existence and treatment of any environmental hazards to the development of surrounding lands.
8. The access to and suitability of transportation arteries proposed within the development and existing external transportation systems and arteries.

9. Any other factor deemed relevant to the limitation of the intensity of development for the benefit of the public health, welfare and safety.
- (e) *Open spaces, plazas and recreation.* Open spaces, plazas and recreation areas provided within a development plan shall be evaluated based on conformance with the goals and objectives of the Comprehensive Plan and the sufficiency of such areas to provide appropriate recreational opportunities, protect sensitive natural areas, conserve areas of unique beauty or historical significance, provide structure to neighborhood design, and encourage compatible and cooperative relationships between adjoining land uses.
  - (f) *Sidewalks, trails, bikeways.* The design of a development plan shall incorporate appropriate pedestrian and bicycle access ways to provide for a variety of transportation alternatives.
  - (g) *Environmental constraints.* The site of the proposed development shall be suitable for use without hazards to persons either on or off the site from the likelihood of increased flooding, erosion or other dangers, annoyances or inconveniences. The condition of the soil groundwater level, drainage and topography shall all be appropriate to the type, pattern and intensity of development intended.
  - (h) *Internal access and circulation.* Every dwelling unit or other use permitted in a development plan shall have access to a public street either directly or by way of a private road, pedestrian way, common area guaranteeing access. Private roads and other access ways shall be required to be constructed to ensure that they are safe and maintainable.
  - (i) *External transportation access.* The proposed development shall be located on, and provide access to, a major street as designated in the Comprehensive Plan unless, due to the size of the development and the type of uses proposed, it will not adversely affect the type or amount of traffic adjoining local streets.
  - (j) *Off-street parking.* Sufficient off-street parking and loading facilities for bicycles and other vehicles as well as cars shall be provided. The requirements of section 33-91 of this chapter shall be used as a general guide in determining the needs for such facilities. Parking areas shall be constructed in accordance with such standards as are approved by the city commission to ensure that they are safe and maintainable and that they allow for sufficient privacy for adjoining uses.
  - (k) *Public facilities.* No development plan shall be approved without adequate on-site and off-site public facilities, including but not limited to storm drainage, sanitary sewers, roadway capacity, fire/rescue service, police service, water distribution system and recreational facilities, which shall serve the proposed development.

- (l) *Unified control.* The applicant shall furnish the city with sufficient evidence to the satisfaction of the city attorney that the applicant is in complete and unified possession and control of the entire area of the proposed, whether the applicant shall provide to the city all necessary documents and information that may be required by the city attorney to ensure that the development project may be lawfully completed according to the plans submitted. No application shall be considered until the requirements of this section have been fully complied with.
- (m) *Phasing.* The city commission may permit or require the phasing or staging of the proposed development. When provisions for phasing are included in the development plan, each phase of development must be planned and related to previous development, surrounding properties, and the available public facilities and services so that a failure to proceed with subsequent phases will not adversely affect public facilities or interests, or surrounding properties.
- (n) *Development time limits.* The city commission shall establish reasonable periods of time for the completion of the total proposed development, any development phases. Any dedicated public facilities, which are part of the development; and facilities planned for common areas. These time limits may be extended by the city commission for reasonable periods upon the petition of an applicant for an amendment to the development plan and based upon good cause, as determined by the city commission. Any extension of time shall not automatically extend the normal expiration date of a building permit, site plan approval or other development order. If time limits contained in the approved development plan are not complied with and not extended for good cause, the city commission may rezone the property or any part of it or amend the approved development plan so as to best protect adjoining properties and the public health, safety and welfare.
- (o) *Bonds.* The city commission may include in the development plan requirements for bonds (or appropriate alternatives) conditioned upon the satisfactory and timely completion of facilities in the development plan, for the benefit of the city and purchasers from the applicant, when the development time limits and phasing schedule do not preclude the sale of individual units prior to the completion of such facilities. In the event that a requirement for bonds or appropriate alternative is not provided for in the plan, then the requirements for such bonds required in this chapter shall be complied with.
- (p) *Applicability of other chapters.* All building code, housing code and other land use regulations of the city are applicable to the MSOD, except for those permitting special exceptions and variances and except to the extent that they conflict with a specific provision of the approved development plan. Analogous land use regulations applying to other areas of the development shall be as determined by the city commission as part of the approved development plan or, if not determined therein, during the site

plan approval process set forth in this chapter, giving due regard to the purpose of each such regulation and the similarity of each area of the MSOD to other zoning districts in terms of permitted uses.

(q) *Variances applicable to the planned development.* A property within a MSOD Development may apply for a variance provided that all of the following criteria are met:

1. The development order does not prohibit individual property owners from applying for variances.
2. The variance request is not contrary to the recorded covenants and deed restrictions.

**Secs. 33-39, 33-40. - Reserved for future use.**