

ARTICLE XII. - ADMINISTRATION AND ENFORCEMENT

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Sec. 33-131. - Generally.

33-131.01. *Statement of intent.* It is the purpose of this article to establish standards and procedures for the various types of decision-making necessary to implement this and other chapters of the DeLand Code of Ordinances.

33-131.02. *Specialized procedures elsewhere in chapter.* Certain specialized administrative and enforcement procedures may be found elsewhere in this chapter. These include, but may not be limited to, procedures relating to historic preservation districts (see article IV), the DeLand Airport district (see article IV), concurrency management (see article V), and subdivisions (see article XIII).

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-132. - Procedure for review of development plans.

33-132.01. *Authorization by a development permit required prior to undertaking any development activity.*

- (a) *Generally.* No development activity, as defined herein, may be undertaken unless a development permit authorizes the activity.
- (b) *Withdrawal of applications.* An application for development review may be withdrawn at any time.
- (c) *Postpermit changes.* After a permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without first obtaining a modification of the permit. A modification may be applied for in the same manner as the original permit. A written record of the modification shall be entered upon the original permit and maintained in the files of the planning department.
- (d) *Expiration of incomplete plans.* All unapproved plans will expire ninety (90) days from the last city generated comment letter unless good cause

for an extension is established by the applicant and approved by the city commission. The applicant and the property owner shall be notified of the expiration of the application by the planning department according to the address(s) presented in the application.

33-132.02. *Basic elements of development review.* There are four basic elements of the development review process created by this section. The four elements are: preapplication conference, application, concepts review, and review of Final Development Plan. The elements, which are mandatory or optional for each class of development, are prescribed below.

33-132.03. *Classes of development activity; review requirements for each.*

(a) *Classes of development activity.* For purposes of prescribing which elements of the development review process a development must go through, development activities are divided into four classes: Class I, Class II, Class III, and Class IV. The development activities falling into each class are as follows:

1. *Class I development.* The following development activities shall be designated as Class I development and shall meet the requirements of section 33-132.05:
 - a. Development activities undertaken pursuant to a final development order issued under this article.
 - b. Development activity necessary to implement a valid site plan/development plan on which the start of construction took place prior to the adoption of this chapter and has continued in good faith. Compliance with the development standards in this chapter is not required if in conflict with the previously approved plan.
 - c. Development activity necessary to implement a valid site plan/development plan which was approved prior to the adoption of this chapter and within one year of the date of the application for the development permit at issue. Compliance with the development standards in this chapter is not required if in conflict with the previously approved plan.
 - d. The construction or alteration of a one- or two-family dwelling on a lot in a valid recorded subdivision approved prior to the adoption of this chapter. Compliance with the development standards in this chapter is not required if in conflict with the previously approved plat.
 - e. Additions of 600 square feet or less to existing nonresidential buildings where there is no proposed change of use.

- f. The erection of a sign, the changing of sign content (except on changeable copy signs), or the removal of protected trees on a previously developed site and independent of any other development activity on the site.
 - g. The resurfacing of a vehicle use area if the vehicle use area conforms to all requirements of this chapter.
2. *Class II development.* The following development activities shall be designated as Class II development and shall provide the information required per section 33-132.10:
- a. Any development involving additions of more than 600 square feet to existing nonresidential buildings.
 - b. A change in the use of property to any permitted use resulting in an increase of four or more required or provided off-street parking spaces. (If the change in the occupancy of the building or the use of the property results in an increase of less than four required or provided parking spaces and does not involve the criteria contained in subsection (a)2., a Class II development review is not required).
 - c. Areas for the sale, display or storage of motor vehicles, boats and other open lot sales activities.
 - d. Multifamily developments, buildings or structures (including condominiums) with 40 or fewer units.
 - e. All nonresidential development land uses buildings, structures or additions with a total floor area not to exceed 40,000 square feet.
 - f. Mobile home developments, lots or spaces with 40 or fewer units.
 - g. The paving of, or otherwise rendering impervious, more than 600 square feet of an existing unpaved area.
3. *Class III development.* The following development activities shall be designated as Class III development and shall provide the information required per section 33-132.10:
- a. All multifamily developments, buildings or structures (including all condominium developments) with 41 to 80 units.
 - b. All commercial, office or industrial developments, buildings or structures with total floor areas of greater than 40,000 but not more than 80,000 square feet.
 - c. All development plans for mobile home parks with 41 to 80 lots or spaces.

4. *Class IV development.* The following development activities shall be designated as Class IV development and shall provide the information required per section 33-132.10:
- a. All multifamily developments, buildings or structures (including all condominium developments) with more than 80 units.
 - b. All commercial, office or industrial developments, buildings or structures with total floor areas of greater than 80,000 square feet.
 - c. All development plans for mobile home parks with 81 or more lots or spaces.
 - d. All recycling centers.

(b) *Review requirements for each class of development activity.* The following table shows whether an element of development review is mandatory or optional for the three classes of development. The following sections in this section describe each element of the development review process.

Review Requirements	Class of Development			
	Class I	Class II	Class III	Class IV
Elements of Review Process				
Pre-Application Conference	Optional	Optional	Optional	Optional
Application	(Building Permit Only)	Mandatory	Mandatory	Mandatory
Concept Review	N/A	Optional	Optional	Optional
Review of Final Development Plans	N/A	Mandatory	Mandatory	Mandatory

(c) *Additional information; continuance.* The technical review committee, planning board, or city commission, reviewing a proposed development plan under this section, may condition review upon the applicant providing reasonable additional information relevant to the development plan meeting applicable development standards, and may continue proceedings for the review of that site plan for a reasonable period of time to allow time for receipt and evaluation of that information.

33-132.04. *Preapplication conference.*

(a) *Description.* A preapplication conference is a meeting between the developer and a planning department representative to discuss the development review process and to identify which staff members will be involved in the development review process, and to designate the

proposed development as Class II, Class III, or Class IV.

- (b) *Submittals.* The developer shall provide the planning department with sufficient information to determine whether the development is Class II, Class III, or Class IV.
- (c) *Effect of meeting.* Except for the determination as to the class of the development, the preapplication conference is for informational purposes only. No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

33.132.05. *Application.*

- (a) *Description.* The purpose of the application is to provide the information necessary to allow a determination to be made as to whether a proposed development meets applicable requirements. For Class II, Class III, and Class IV developments, a concept plan or development plan will accompany the application, as provided below.
- (b) *Contents of an application for Class II, Class III, and Class IV development.* The contents of an application shall be as prescribed below in section 33-132.10.
- (c) *Approval of Class I development.*
 1. Upon receipt of an application for Class I development, the building official shall have 30 days to grant or deny the application based on whether it meets the requirements in this chapter and the technical construction standards maintained by the city engineer.
 2. The application may be denied with a statement of the reasonable modifications that are necessary in order for the development proposal to be approved. In such case, the developer has 30 days to resubmit the application without repayment of applicable fees.
- (d) *Plans for approved projects.* Any development permit shall be deemed to incorporate the final development order, and all development on the site shall be governed by that development order, including all conditions contained in the order.

33-132.06. *Concept plan review.*

- (a) *Description.* This element of the development review process involves presenting a concept plan to the planning board. The purpose of concept review is to give the developer a chance to receive informal comment from the city commission, planning board, and staff, on the development

proposal before a great deal of money is spent on detailed plans. The developer shall file a concept plan along with the completed application if concept review is to be undertaken.

- (b) *Contents of a concept plan.* The contents of the concept plan shall be as prescribed below in section 33-132.10.
- (c) *Determination of completeness.* Within five working days of receipt of a concept plan, the department shall:
 - 1. Determine that the submittals are incomplete and inform the developer in writing as to the deficiencies. The developer may cure the deficiencies within five days and have the concept plan remain in the current review cycle. Thereafter, the developer may cure the deficiencies within six months without payment of a reapplication fee, but, if more than six months has elapsed, must thereafter reinitiate the application and pay an additional fee; or,
 - 2. Determine that the submittals are complete and proceed with the following procedures.
- (d) *Hearing before technical review committee.* The concept plan shall be reviewed by the TRC within 25 days of submittal of an application. The TRC shall review the concept plan and render written comments to the applicant within ten days following the TRC meeting.
- (e) *Hearing before planning board.*
 - 1. The applicant may make a written request, within 30 days from rendition of the TRC's written comments, that the concept plan be forwarded to the planning board for review.
 - 2. The concept plan shall be set on the planning board's agenda within 30 days of the applicant's request for planning board review.
 - 3. The planning board shall consider:
 - a. Characteristics of the site and surrounding area, including important natural and manmade features, the size and accessibility of the site, and surrounding land uses.
 - b. Whether the concurrency requirements of this chapter could be met if the development were built.
 - c. The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas; the preservation of natural features; proposed parking areas; internal traffic circulation system, including trails; the approximate total ground

coverage of paved areas and structures; and, types of water and sewage treatment systems.

d. Conformity of the proposed development with the Comprehensive Plan, this chapter and other applicable regulations.

e. Applicable regulations, review procedures, and submission requirements.

4. The planning board may provide comments, but shall not provide any indication of approval or disapproval of the proposal. No person may rely upon any comment concerning the proposal, or any expression of any nature about the proposal, made by any person during the concept review process as a representation or implication that the particular proposal will be ultimately approved or disapproved in any form.

33-132.07. *Final Development Plan review.*

(a) *Description.* This element of the development review process involves the review of Final Development Plans by staff, by the technical review committee, and, in the case of Class III developments, by the planning board, and in the case of Class IV developments, by the planning board and city commission.

(b) *Initiation.* The developer may initiate Final Development Plan review by submitting a Final Development Plan with the planning department. If the proposed development is to be phased when originally submitted or changed to a phased development after receiving approval, a master plan must be submitted that complies with subsection 33-132.10(e).

(c) *Contents of Final Development Plan.* The contents of the Final Development Plan shall be as prescribed in section 33-132.10 below.

(d) *Determination of completeness.* Within five days of receipt of a Final Development Plan, the department shall:

1. Determine that the submittals are incomplete and inform the developer in writing as to the deficiencies. The developer may cure the deficiencies within five days and have the Final Development plan remain in the current review cycle. Thereafter, the developer may cure the deficiencies within six months without payment of a reapplication fee, but, if more than six months has elapsed, must thereafter reinitiate the application and pay an additional fee; or,

2. Determine that the submittals are complete and proceed with the following procedures.

(e) *Review by technical review committee.* The Final Development Plan shall be reviewed by the technical review committee within 25 days of

submittal of an application. The applicant will be notified of the date and location of the technical review committee review. Each technical review committee member shall submit written comments prior to the meeting of the technical review committee.

- (f) *Report of planning director.* Within ten working days after the committee meets to consider the plan and comments, the planning director shall issue a written report setting forth findings and conclusions supporting the decision or recommendation of the technical review committee that:
1. Determines the site plan is insufficient as presented and that additional information or corrections are required; or
 2. A final development order complying with section 33-132.11 below should be issued; or
 3. A final development order with conditions, complying with section 33-132.11 below should be issued; or
 4. No development order should be issued because the proposed development does not meet the requirements of this chapter.

Upon receiving the written report from the planning director the applicant must submit revised plans within six months of the date of the report from the TRC or planning board hearing or city commission hearing dependent upon the class of the development plan, otherwise the development plan will be deemed withdrawn and a new application must be submitted. The planning director may extend the expiration of the development plan for one 180-day period upon receiving a request by the applicant prior to expiration.

- (g) *Issuance of final development order for Class II development.* For Class II developments, the planning director shall issue a final development order, issue a final development order with conditions, or refuse to issue a development order, whichever is consistent with the action of the technical review committee.

- (h) *Issuance of final development orders for Class III development.*

1. For Class III developments, the Final Development Plan shall be placed on a planning board agenda for a planning board meeting which is within 30 days following issuance of a recommendation by the TRC. The planning board shall conduct a public hearing on the development plan to determine whether the plan satisfies the requirements of this chapter.
2. At the conclusion of the hearing of the application, the planning board shall render a decision that the Final Development Plan is approved, approved with conditions, or denied based upon a finding that the proposed development does not meet the requirements of this chapter.

The planning director shall notify the applicant of the planning board's decision. If the decision of the planning board is that the final development order not be issued, or issued with conditions, the notice shall be in writing and contain the reasons for the decision.

3. A copy of the final development order if issued, or a written set of findings and conclusions supporting the refusal to issue the development order, shall be sent to the applicant.

(i) *Issuance of final development orders for Class IV development.*

1. For Class IV developments, the Final Development Plan shall be placed on a planning board agenda for a planning board meeting which is within 30 days following issuance of a recommendation by the TRC. The planning board shall conduct a public hearing on the development plan to determine whether the plan satisfies the requirements of this chapter.
2. At the conclusion of the hearing of the application, the planning board shall make a recommendation to the city commission that the Final Development Plan be approved, approved with conditions, or denied. The planning director shall notify the applicant of the planning board's recommendation. If the recommendation of the planning board is that the final development order not be issued, or issued with conditions, the notice shall be in writing and contain the reasons for the decision.
3. After action by the planning board, the planning director shall schedule the application for a city commission meeting which is within 25 days of the said action by the planning board and shall notify the applicant of the commission meeting. A copy of any written report on the application submitted to the city commission by the planning director shall be made available to the applicant.
4. The city commission shall hold a public hearing on the Final Development Plan to take comments on the plan and to ensure compliance with all applicable standards. At the conclusion of the discussion of the application the city commission shall render a decision that the Final Development Plan is approved, approved with conditions, or denied based upon a finding that the proposed development does not meet the requirements of this chapter. The planning director shall notify the applicant of the city commission's decision. If the decision of the city commission is that the final development order not be issued, or issued with conditions, the notice shall be in writing and contain the reasons for the decision.
5. A copy of the final development order if issued, or a written set of findings and conclusions supporting the refusal to issue the

development order, shall be sent to the applicant.

- (j) The applicant shall have two years from the date of the issuance of the final development order to acquire a building permit. After two years from its issuance, the final development order shall remain in effect only so long as there is a building permit in effect for the development. In instances where litigation challenging the issuance of a final development order is pending, this one-year time period shall not start until after all litigation is final and all stages of appellate review are exhausted, but in no event shall this one-year time period run more than five years from the issuance of a final development order.

The planning director may extend the expiration of the final development order for one 180-day period upon application received by the planning department prior to expiration.

(Ord. No. 2008-39, § 26, 9-3-08)

33-132.08. *Reserved for future use.*

33-132.09. *Appeals.*

- (a) *Class II and III development.* For Class II and III development, a decision by the technical review committee or planning board, as the case may be, to not issue a development order, or to issue a development order with conditions, maybe appealed to the city commission by filing, with the planning director, a written notice of appeal within ten days of the notice of the decision. The notice of appeal shall set forth with particularity the basis for the appeal.
- (b) *Class IV development.* For Class IV development, any final decision by the city commission to not issue a development order, or to issue a development order with conditions, may be appealed by the applicant within 30 calendar days of the date of the written notice of the decision. The appeal shall be filed as provided by the rules of civil and appellate procedure. Any appeal filed after 30 calendar days shall be untimely and dismissed. The decision of the city commission shall not be disturbed on appeal if the decision was lawful and supported by competent, substantial evidence.

33-132.10. *Required contents of submittals: application, concept plan, preliminary or Final Development Plan, and master plan.*

- (a) *Application for development review.* Applications for development review shall be available from the department. A completed application shall be signed by all owners, or their agent, of the property subject to the proposal, and notarized. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In a case of corporate ownership, the authorized signature shall be accompanied by a notation of

the signer's office in the corporation, and embossed with the corporate seal. In addition:

1. The application shall include documents and drawings showing:
 - a. Name of owner.
 - b. Description of intended use.
 - c. Description of proposed development activities.
 - d. Location and linear dimensions and size of parcel.
 - e. Construction plans for all proposed development activities.
 2. Depending on the nature of the proposed development activities, the planning director may require the following to be submitted as part of the application:
 - a. Building structure, sidewalk and pavement location, height and setback.
 - b. Location, length and width of proposed driveways.
 - c. A map of vegetative cover including the location and identity by common name of all protected trees. Groups of protected trees may be designated as "clusters" with the estimated total number noted.
 - d. Floor plan for existing and proposed structures.
 - e. A landscape plan meeting or exceeding the requirements in section 33-92 of this chapter for all new or existing uses.
 - f. Sign plans, including the location of signs on the site; dimensions of all signs, including maximum square footage, height and width; and distance from the ground to the bottom of the sign display area (including borders).
 - g. Survey of property.
- (b) *Concept plan.* All concept plans submitted shall include the following information:
1. Location of the subject property in relation to surrounding and/or adjacent roadways and proposed access to the property-street network.
 2. General description of the project, illustrating the location of all proposed use(s). Residential projects shall include the total number of units proposed.

3. Approximate location and type of developments immediately adjacent to the proposed project.
4. A scaled drawing of the site showing major geographical features including creeks, ditches, water bodies, other prominent topographic features. USGS, regional planning council maps, or tax maps may be used.
5. Location of major tree stands and other large trees. This may be outlined on aerial tax maps, and need not be a tree survey.
6. Location sizes and number of stories of proposed building(s) and aboveground utilities.
7. General parking lot layout with approximate number of spaces, basic traffic flow and proposed circulation patterns.
8. A statement indicating whether access will be required to a state or county road.
9. Generalized location of intended buffers.
10. Proposed footprint of building and access points.
11. A statement identifying the location and elevation of any flood zones.
12. A general description of how drainage will be handled, including a soil statement (SCS acceptable) and the general area of the site to be used for stormwater management facilities.
13. Any special occupancies to be included on the site, which may include but are not limited to, underground storage tanks; a fireworks manufacturing site; a paint and body shop; or any other occupancy that includes a fire safety concern.
14. Existing water services. This may simply be a statement such as: "There are no water service facilities on or near the site."
15. The gross floor area per floor of the building(s) proposed.
16. Type of building construction. Refer to current edition of the Florida Building Code chapter 6.
17. The occupancy classification of the building. Refer to current edition of the Florida Building Code chapter 3.
18. A statement that the site is or is not in a fire district.

(c) *General requirements for preliminary and Final Development Plans.* All preliminary and Final Development Plans for Class II and Class III developments submitted pursuant to this article shall conform to the

following standards:

1. All plans shall be drawn to a scale of one inch equals 20 feet, unless the planning director determines that a different scale is sufficient or necessary for proper review of the proposal.
2. If multiple sheets are used, the sheet number and total number of sheets must be clearly indicated on each.
3. The front cover sheet of each plan shall include:
 - a. A general vicinity or location map drawn to scale (both stated and graphic) showing the position of the proposed development in the section(s), township and range, together with the principal roads, city limits, and/or other pertinent orientation information.
 - b. A complete legal description of the property.
 - c. The name addresses and telephone number of the owner(s) of the property. Where a corporation or company is the owner of the property, the name and address of the president and secretary of the entity shall be shown.
 - d. Name, business address, and telephone number of those individuals responsible for the preparation of the drawing(s) with the design professionals information as required by F.S. chapter 471 for registered engineers or chapter 481 for registered architects or landscape architects.
 - e. Each sheet shall contain a title block with the name of the development, stated and graphic scale, a north arrow, and date.
 - f. The plan shall show the boundaries of the property with a metes and bounds description reference to section, township and range, tied to a section or quarter section or subdivision name and lot number(s).
 - g. The area of the property shown in square feet and acres.
 - h. Sheet/drawing index showing the drawing sheets in order with the description of what is on the page (i.e. paving and grading, drainage, etc.)
4. The number of copies, as established by the planning director, of the submittal shall be required.
5. Unless a format is specifically called for below, the information required may be presented textually, graphically, or on a map, plan, aerial photograph, or by other means, whichever most clearly conveys the required information. It is to submit the information in a form that

allows ready determination of whether the requirements of this chapter, the Comprehensive Plan, or other federal, state, or regional laws and regulations have been met.

(d) *Final development plan.* All Final Development Plans shall include the following information:

1. Location map with a boundary survey, signed and sealed by certified surveyor, showing all existing and proposed easements, emergency accessways, other cross-access easement agreements, and rights-of-way.
2. Use and description of proposed project.
3. A high-quality scaled drawing of the site showing the following:
 - a. Location and dimensions of all existing and proposed structures indicating all access points, gross and net floor area (per section 33-91.01(c)3.) per floor per building, building height and number of stories, statement of number of units, bedrooms. Applicable sites must include design of all structures per Section 33-94 Community design standards.
 - b. All existing and proposed vehicular and pedestrian accessways with dimensions including accessible routes to comply with the Florida Accessibility Code.
 - c. Area(s) designated for off-street parking showing the number of existing, required, and proposed parking spaces based upon parking standards and the Florida Accessibility Code.
 - d. Required bicycle parking, number and placement of racks.
 - e. Designated loading and service areas.
 - f. A typical detail of a parking space with the number of spaces indicated in specific areas.
 - g. Location of all proposed structures to be located within the vehicular use area, including signs, dumpsters, trash compactors, etc.
 - h. Total area of site with percentages allocated to buildings, paving, impervious area and open space.
 - i. Dimensions of all features on the site must be indicated, including but not limited to setbacks, building separation, driveway and street widths, etc.
 - j. Designate all common areas.

- k. Any proposed or required screening or buffering mechanism, including walls, hedges and/or fences.
4. A scaled topographic map of the site showing major geographical features - creeks, water bodies, other natural and manmade prominent features, including all wetland areas.
5. A map of vegetative cover including the location and identity by common name of all protected trees. Groups of protected trees may be designated as "clusters" with the estimated total number noted.
6. Location of all adjacent streets, internal streets, driveways and all access points.
7. Sketch showing proposed access onto public transportation facilities.
8. Sketch showing basic plans for internal traffic circulation and parking lot design and preliminary plans with interaction between proposed development and public transportation facilities.
9. The building construction type and type of roof covering.
10. Fire protection systems to be provided in the structures shall be described. These may include automatic fire sprinkler systems, halon systems, standpipe systems, smoke removal systems, smoke detection systems, and fire extinguishers.
11. A description of any required fire sprinkler systems, including type (i.e., dry, wet, chemical addition).
12. Identity of any known special fire protection concerns such as flammable liquids storage tanks, dry-cleaning operations, paint spray operations, manufacturing processes, furnaces, ovens, combustible storage, etc.
13. The locations of fire hydrants and the size and locations of water mains that supply them. The point of service for fire protection systems connected to the public water system shall also be designated.
14. The location of paved areas and/or stabilized areas of the site that may be used for access to the structures by emergency apparatus. This shall include cul-de-sacs, dead ends, emergency accesses, lime rock based areas of travel, etc.
15. Proposed or required fire lanes to be provided.
16. Provide the calculation sheet for the required fire flow of the structures contained on the site. This shall be determined using the current Florida Fire Prevention Code and NFPA 1 as it may be

amended from time to time.

17. Development phase lines.
18. The location of all existing utilities on the site and in adjacent easements and/or rights-of-way.
19. Indicate existing and proposed easements for public facilities.
20. Proposed off-site extensions of utilities from their point of available capacity.
21. General location of proposed water and wastewater facilities, including dimensions, size and type of pipes and slope of pipes.
22. If to be used, provide a description of:
 - a. Grease, sand and lint interceptors.
 - b. Any other pretreatment facilities.
23. Engineering report itemizing the estimated wastewater average daily flow, showing method of calculation and indicating the constituents of the wastewater.
24. A statement as to whether backflow preventors are needed.
25. A description of any required fire sprinkler systems, including type, i.e., dry, wet, chemical addition.
26. Drainage design should be explained in detail, including soils analysis (SCS manual acceptable), high water table depth, graphic depiction of stormwater facilities, with size, depth, length, etc. noted, general stormwater management calculations. Provide statements regarding what state permits are required.
27. Grading plan with general elevations and dimensioning.
28. A statement describing proposed sedimentation control plan techniques.
29. The occupancy classification of the building. Refer to the current edition of the Florida Building Code.
30. A description of the development's handicapped accessibility. Refer to the current edition of the Florida Accessibility Code.
31. A statement that the site is or is not in a historic preservation district.
32. A landscape plan with detailed plant list.
33. Design of any improvements to public right-of-way, including, but

not limited to, left turn or bypass lanes and signalization.

34. Traffic impact study if required, per section 33-41.04.

35. Endangered species report, if required, per section 33-60.02.

(e) *Master plan.* A master plan is required for any development, which is to be developed in phases. A master plan shall provide the following information for the entire development:

1. A concept plan for the entire master plan area showing the phases. Any changes to the phasing schedule must be resubmitted to the planning department and approved by the technical review committee, planning board or city commission, whichever is applicable.

2. A Final Development Plan for the first phase or phases for which approval is sought.

3. A development phasing schedule including the sequence for each phase; approximate size of the area in each phase; installation of utilities and landscaping (includes tree protection) per phase, and proposed phasing of construction of public recreation and common open space areas and facilities.

4. Total acreage in each phase and gross intensity (nonresidential) and gross density (residential) of each phase.

5. Number, height and type of residential units.

6. Floor area, height and types of office, commercial, industrial and other proposed uses.

7. Total land area, and approximate location and amount of open space included in each residential, office, commercial, and industrial area.

8. Approximate location of proposed and existing streets and pedestrian and bicycle routes, including points of ingress and egress.

9. Approximate location and acreage of any proposed public use such as parks, school sites, and similar public or semipublic uses.

10. A vicinity map of the area within one mile surrounding the site showing:

a. Land use designations and boundaries.

b. Traffic circulation systems.

c. Major public facilities.

- d. Municipal boundary lines.
 - e. Urban service area boundaries.
11. Other documentation necessary to permit satisfactory review under the requirements of this chapter, the Comprehensive Plan, or other federal, state, or regional laws and regulations that maybe applicable and required by special circumstances in the determination of the planning director.

(Ord. No. 2008-39, § 27, 9-3-08)

33-132.11. *Required contents of final development orders.* A final development order shall contain the following:

- (a) An approved Final Development Plan with findings and conclusions.
- (b) A specific time period during which the development order is valid and during which time development shall commence. A final development order shall remain valid only if development commences and continues in good faith according to the terms and conditions of approval.
- (c) A Certificate of Exemption or Certificate of Capacity reservation in accordance with the requirements of section 33-41 of this chapter.

(Ord. No. 2002-09, §§ 1, 2, 2-18-2002; Ord. No. 2002-38, § 1, 9-16-2002; Ord. No. 2002-42, § 1, 10-21-2002; Ord. No. 2005-65, § 14, 12-19-05)

Sec. 33-133. - Review of Planned Development plans.

33-133.01. *Description.* This section describes the procedure for approval of Planned Development plans. These plans do not in themselves authorize development of land, but rather prescribe the land use and design conditions pursuant to which specific development plans will be reviewed. These procedures should be read in conjunction with the Planned Development provisions found in section 33-32 of this chapter.

33-133.02. *Procedure.*

- (a) *Concept review.* The applicant may submit for planning board review a concept plan of a proposed development. Planning board review of the concept plan shall consist of an informal hearing to be held before the planning board with written notification provided to all property owners within 500 feet of the proposed development at least seven calendar days prior to the hearing before the planning board. This concept review is only intended to alert an applicant to problems with or objections to a particular proposed development, so that a proposal may be abandoned without significant expenditure if the applicant determines that approval of the proposal will be questionable or unlikely. During concept review, no comment concerning a proposed development concept or any expressed

approval of the concept by the planning board, its members or any officer or employee of the city, shall be relied upon by the applicant or any other person as representation or implication that the particular concept proposed will ever be ultimately approved by the city commission in any form.

1. *Determination of completeness.* Within five days of receipt of a concept plan, the department shall:
 - a. Determine that the submittals are incomplete and inform the developer in writing as to the deficiencies. The developer may cure the deficiencies within five days and have the concept plan remain in the current review cycle. Thereafter, the developer may cure the deficiencies within six months without payment of a reapplication fee, but, if more than six months has elapsed, must thereafter reinitiate the application and pay an additional fee; or,
 - b. Determine that the submittals are complete and proceed with the following procedures.
2. *Review by technical review committee.* The concept plan shall be reviewed by the technical review committee within 25 days of submittal of an application. The applicant will be notified of the date and location of the technical review committee review. Each technical review committee member shall submit written comments prior to the meeting of the technical review committee.
3. *Report of planning director.* Within ten working days after the committee meets to consider the plan and comments, the planning director shall issue a written report setting forth the recommendations of the technical review committee. The concept plan shall then be placed on a planning board agenda for a planning board meeting which is within 30 days following issuance of a recommendation by the TRC.
4. *Planning board review.* At the time the concept plan is reviewed by the planning board, the applicant or his representative shall discuss plans, which he may have for the proposed development. Also, the planning board shall advise the applicant of the regulations which pertain to the proposed development and the procedure the applicant should follow in applying for the Planned Development.

(b) *Planned Development plan review.*

1. The developer may initiate Planned Development plan review by submitting a rezoning application and a minimum of 15 copies of a Planned Development plan that contain the required exhibits listed in section 33-133.03 with the planning department.

2. Within five days of receipt of a Planned Development plan, the department shall:
 - a. Determine that the submittals are incomplete and inform the developer in writing as to the deficiencies. The developer may cure the deficiencies within five days and have the planned development plan remain in the current review cycle. Thereafter, the developer may cure the deficiencies within six months without payment of a reapplication fee, but, if more than six months has elapsed, must thereafter reinitiate the application and pay an additional fee; or,
 - b. Determine that the submittals are complete and proceed with the following procedures.
3. The Planned Development plan shall be reviewed by the technical review committee within 25 days of submittal of an application. The applicant will be notified of the date and location of the technical review committee review. Each technical review committee member shall submit written comments prior to the meeting of the technical review committee.
4. Within ten working days after the committee meets to consider the Planned Development plan and comments, the planning director shall issue a written report setting forth the recommendations of the technical review committee. The planned development plan shall then be placed on a planning board agenda for a planning board meeting which is within 30 days following issuance of a recommendation by the TRC. Planning board review of the Planned Development Plan shall consist of a hearing to be held before the planning board. In the event no Planned Development Concept Plan has been submitted and reviewed prior to the submittal of the Planned Development Plan, the Applicant shall provide written notification of the hearing to all property owners within 500 feet of the proposed development at least seven calendar days prior to the hearing before the planning board.
5. Public notice of the planning board and city commission hearings shall be given. Said public notice shall meet the requirements of section 133.02(a) and section 135.02 of this chapter, as well as any applicable state law regarding the rezoning of property.
6. The planning board shall conduct a public hearing on the development plan to determine whether the plan satisfies the requirements of this chapter and should be rezoned according to the Planned Development plan.
7. At the conclusion of the hearing of the application, the planning board shall make a recommendation to the city commission that the Planned

Development plan be approved, approved with conditions, or denied. The planning director shall notify the applicant of the planning board's recommendation. If the recommendation of the planning board is that the Planned Development plan not be issued, or issued with conditions, the notice shall be in writing and contain the reasons for the decision.

8. After action by the planning board, the planning director shall schedule the application for a city commission meeting which is within 25 days of the said action by the planning board and shall notify the applicant of the commission meeting. A copy of any written report on the application submitted to the city commission by the planning director shall be made available to the applicant.
 9. The city commission shall hold a public hearing on the Planned Development plan to take comments on the plan and to ensure compliance with all applicable standards. At the conclusion of the discussion of the application the city commission shall render a decision that the Planned Development plan is approved, approved with conditions, or denied based upon a finding that the proposed Planned Development does not meet the requirements of this chapter or will otherwise have an adverse impact on the public health safety and welfare. The planning director shall notify the applicant of the city commission's decision. If the decision of the city commission is that the Planned Development not be approved, or approved with conditions, the notice shall be in writing and contain the reasons for the decision.
 10. The applicant shall be provided with a copy of the Planned Development plan if approved. If the city commission decides to deny the application for the Planned Development, a copy of a written set of findings and conclusions supporting the denial of the application shall be sent to the applicant.
 11. If the Planned Development plan is approved, the applicant has one year from the date of the commission approval or such period as is specifically provided for in the approval to submit development plan(s) for approval pursuant to the procedures in section 33-132
- (c) *Reapplication time limits.* The rezoning of property to the PD district based on a particular Planned Development plan shall operate to prohibit the consideration by the city commission of any new application for rezoning (excluding an application to amend the approved development plan) for any part of such property for a period of 12 months from the date of the rezoning. Neither the denial of an application to rezone to the PD district nor the withdrawal of such petition shall operate to deny the applicant consideration of a new rezoning application at any time, except that no new application to rezone to the PD district may be considered by

the city commission within a period of 12 months from the date of such denial or withdrawal. The denial of an application to rezone to a category other than Planned Development shall not operate to prohibit the filing of an application for PD zoning at any time.

- (d) *Amendments to approved development plans.* An amendment to an approved plan (except for an extension of a time limit) may occur only by a rezoning application accompanied by a new proposed development plan. All appropriate maps, plans and reports submitted with the approved development plan may be resubmitted with the rezoning petition, along with sufficient new maps, plans and reports to clearly and thoroughly indicate the proposed changes as the new proposed development plan.
- (e) *Plats and development plans.* Approval of a Planned Development plan and rezoning to the PD district shall not exempt the applicant from complying with all platting and development plan review requirements. All plats and development plans shall be reviewed as provided in section 33-132 of this article and section 33-146 of article XIII. Such plats and development plans shall be in conformance with the approved planned development plan, including any conditions or additions to the plan made by the city commission.
- (f) *Simultaneous submittals.* Application for plat or development plan approval may be submitted for review simultaneously with applications for Planned Development plan review. If the approved Planned Development plan includes any additions or conditions by the city commission, any plat or development plan undergoing simultaneous review may be referred back to the planning board for further consideration.
- (g) *Phasing.* If the Planned Development plan calls for development plans to be submitted in phases, the development plans shall be submitted and reviewed accordingly and no development plan may be approved for any phase if the planning director determines that development of a prior phase is not sufficiently completed to insure that the phasing limitations of the approved Planned Development plan are met.
- (h) *Amendments to an approved final site plan.* Any remodeling, enlargement, rearrangement, reconstruction or redesign of any development which does not conform to the approved site plan for such development will require an amendment to the approved site plan, as hereinafter provided, including, but not limited to, any remodeling, enlargement, rearrangement, reconstruction or redesign which expands the gross floor area, enlarges a building envelope, or alters the site configuration through site redesign or other changes. Such amendments shall be submitted and reviewed in the same manner as the original application and may be approved by the planning board and city commission provided that no requirement of any approved PD development plan shall be violated.

33-133.03. *Planned Development plan required exhibits.* All Planned Development plans shall include the following information:

- (a) An application for rezoning and, if necessary, an application for amendment to the DeLand Comprehensive Plan.
- (b) A legal description of the site of the proposed planned development, along with the names of every person owning an interest in any part of the site and the nature of each person's interest.
- (c) An existing conditions map drawn to scale and acceptable to the planning director.
- (d) A development plan map drawn at a scale acceptable to the planning director which shall include:
 - 1. Conceptual configuration of proposed development.
 - 2. A plan for pedestrian, bikeway and vehicular circulation describing the general design capacity of the system as well as access points to the major thoroughfare system. A traffic impact study describing each phase of development shall be included as a supplement to this plan.
 - 3. Drainage concept plan, indicating the manner of controlling water drainage from the property.
 - 4. A generalized landscaping plan.
- (e) A development plan agreement which shall include:
 - 1. A statement indicating the purpose and intent of the project and the applicant's statement of how the proposed Planned Development complies with the goals and policies of the city's Comprehensive Plan.
 - 2. A statement of the internal and external land use relationships and compatibility.
 - 3. Statistical information including:
 - a. Total acreage of the site.
 - b. Maximum building coverage expressed as a percentage of the site area.
 - c. Maximum impervious surface ratio expressed as a percent of the total site area.
 - d. The calculated residential density for the project.
 - e. The exact number of dwelling units and residential density in each

residential use area.

- f. The exact number of nonresidential land uses by type and size (gross floor area) to be allowed.
 - g. The specific acreage of each use.
 - h. The areas of land devoted to publicly owned open space publicly owned recreational areas, publicly owned plazas, common area, open space, common area recreational areas, and common area plazas, all expressed as percentages of the total site area.
- 4. A statement indicating the design standards proposed to be utilized for all streets and off-street parking and loading facilities, public or private.
 - 5. A development schedule for the proposed development (or for each phase, if phasing is proposed) which shall not be binding, except as may be specifically required in the rezoning ordinance.
 - 6. A statement providing a detailed listing of the development standards to be used in the planned development or portions thereof, including standards for building setbacks, lot frontages, residential density, floor area ratio, impervious surface ratios, building heights, right-of-way and pavement widths, and any other standards which may be applicable to the proposed development.
- (f) If any of the items required to be included in the development plan map or agreement is inapplicable or irrelevant to proposed planned development, such item may be omitted. The development plan agreement shall identify the items missing and include a brief explanation of why they are irrelevant, inapplicable or not submitted. With the concurrence of the planning director, some items to be included in the development plan agreement may be combined with the others or shown on the development plan map, provided no confusion or ambiguity results.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02; Ord. No. 2005-65, § 15, 12-19-05)

Sec. 33-134. - Procedure for obtaining a special exception.

33-134.01. *Generally.*

- (a) The city commission shall hear and decide applications for special exceptions authorized under this chapter in the manner provided for below.
- (b) The procedure in this section shall apply to all requests for special exceptions for the use of land, and to all other circumstances under which by the provisions of this chapter the city commission must approve a specific proposed use of land.

- (c) This section shall not apply to alcoholic beverage permits issued pursuant to section 3-3 of the DeLand Code of Ordinances.

33-134.02. *Application.*

- (a) *Application fees.* All requests for special exceptions shall be submitted in writing to the planning department, together with all applicable fees as provided by resolution.
- (b) *Contents.* The application shall contain the following:
 - 1. A legal description and street address of the property.
 - 2. Notarized authorization of the owner if the applicant is other than the owner or an attorney for the owner.
 - 3. Fifteen copies of a site plan drawn to scale showing dimensions of the property, the existing and proposed location of structures on the property, vehicular accessways and circulation areas, off-street parking and loading areas, refuse and service areas, required yards and other open spaces, landscaping or buffer areas, existing and proposed adjacent rights-of-way showing widths and centerlines, all setbacks, distances between buildings, widths of accessways, driveways and interior and terminal islands, and all existing and proposed sidewalks and landscaping plans.
 - 4. A tabular summary describing the proposed use of the property including existing and proposed use of property, conditions on the use, hours of operation, numbers of residents, area of the property, floor area of existing and proposed structures and uses, existing and proposed density, where applicable, number of existing and proposed units, pervious and impervious areas and percentage of coverage, number of required and provided off-street parking and loading spaces.
 - 5. Any information or exhibits necessary to demonstrate that the grant of a special exception will be in harmony with the general intent and purpose of this Section, including but not limited to proposed signs, lighting or utilities, or any other additional information deemed necessary by any reviewing department or agency.

33-134.03. *Review by planning department.* The planning department shall review the application within ten days from the date the application is submitted to determine if the contents are complete and accurate. If the application is found to be lacking information requested by the planning department, or if the data and exhibits are inaccurate, the application will not be considered "filed" for the purpose of processing and shall not be placed on the planning board agenda. The proposed site plan may be reviewed concurrently with the proposed special exception in accordance with the provisions of section [part] 33-132 of this

article.

33-134.04. *Report to planning board.* The planning department shall submit a written report containing its recommendations on each application to the planning board prior to the meeting of the planning board at which the application will be heard. A copy of the report shall be made available to the applicant.

33-134.05. *Planning board hearing.* The planning board shall hold a public hearing on each application and shall forward its recommendations to the city commission. The subject property shall be posted at least seven days prior to the planning board meeting and shall remain in place until after the action of the city commission. The public hearing shall be heard seven days after the advertisement is published. The advertisement shall be published in the legal notice section of a daily newspaper of general circulation.

33-134.06. *Decision by city commission.* The city commission shall hold a public hearing on all recommendations for special exceptions from the planning board. The public hearing shall be heard seven days after the advertisement is published. The advertisement shall be published in the legal notice section of a daily newspaper of general circulation.

The city commission may accept, reject, modify, return or continue and seek additional information on those recommendations. No approval of a special exception shall be granted unless approved by a majority of the commissioners voting.

33-134.07. *Conditions and safeguards.* The development and use of the site of an approved special exception shall be in accordance with the approved site plan and application materials. The approved site plan shall be filed with the building department, and all development shall be in compliance with that plan. The planning board may recommend and the city commission may impose on the grant of any special exception any conditions or safeguards not otherwise required if deemed necessary or desirable in furthering the purpose of this section, including but not limited to requiring restrictions on hours of operation and size of buildings, additional landscape and buffer areas, limiting vehicular access points and location of off-street parking, and similar conditions. Violation of any such condition or safeguard shall be deemed a violation of this section and may result in a revocation of any special exception permit, in addition to any other remedy for such violation provided in this section or by law.

33-134.08. *Denial.*

(a) *Reasons for denial.* The planning board may recommend denial of any application for any special exception, and the city commission may deny any application for special exception, for one or more of the following reasons:

1. It is inconsistent with the findings and intent of this chapter.

2. It is inconsistent with any element of the Comprehensive Plan.
3. It will adversely affect the public interest.
4. It does not meet the requirements of the applicable special exception regulations.
5. The applicant will not be able to meet all requirements imposed by federal, state or local government or by the city commission.
6. It will generate a volume or frequency of traffic, which will substantially interfere with or disrupt the use or enjoyment of properties within 1,000 feet of the use.
7. It will create a hazard, a public nuisance or be dangerous to individuals or the public.
8. The proposed use is incompatible with the predominant use of the surrounding property or will materially alter, disrupt or decrease the character or value of the neighborhood.
9. It will adversely affect the natural environment, natural resources or scenic beauty, or cause excessive pollution.

33-134.09. *Expiration or abandonment of special exception purpose.* If a special exception does not begin to serve the purpose for which it was granted permission within two years from the date of approval of the special exception or if its use is abandoned for 365 days from the date of approval, it shall expire. The submittal of a Final Development Plan will constitute meeting this provision. If after receiving approval the development plan expires, the special exception will be considered to have expired and a new application will need to be submitted and approved in accordance with this section.

(Ord. No. 2002-09, §§ 1, 2, 2-18-2002; Ord. No. 2002-38, §§ 2—4, 9-16-2002; Ord. No. 2005-65, § 16, 12-19-05)

Sec. 33-135. - Procedure for text amendments and rezonings.

33-135.01. *Amendments to text of chapter.*

- (a) *Generally.* Amendments to the text of this chapter may be initiated by the city or upon application of any interested person. Persons who wish to initiate a change in the text of this chapter shall apply on a form provided by the planning department and shall pay an application fee set by resolution of the city commission.
- (b) *Review.* Generally, the planning board shall review proposed changes in this chapter, which shall make a recommendation to the city commission prior to final action adopting or not adopting the amendment. However, at the request of either the planning board or the city commission, or in the

discretion of the city manager, proposed amendments may be taken directly to the city commission for action.

33-135.02. *Rezoning property or changing use categories.*

- (a) *Application for rezoning or use change; fee; contents.* Persons who wish to initiate consideration of an ordinance rezoning specific parcels of property or substantially changing permitted use categories within districts shall apply on a form provided by the planning department and shall pay an application fee set by resolution of the city commission. The application for rezoning or use change shall include a current survey of the property prepared by a licensed surveyor; a legal description of the property; the street address of the property, if an address has been assigned; a statement as to how the proposal is consistent with the DeLand Comprehensive Plan; and a notarized authorization from the owner, if the applicant is other than the owner or his agent.
- (b) *Report to planning board.* The planning department shall submit a written report containing its recommendations on each application to the planning board prior to the meeting of the planning board at which the application will be heard. A copy of the report shall be made available to the applicant.
- (c) *Hearing by planning board.* The planning board shall hold a public hearing on each application and shall forward its recommendations to the city commission.
- (d) *Decision by city commission.* The city commission shall hold two public hearings after due public notice on all recommendations for rezoning or district use changes from the planning board. It may accept, reject, modify, return or continue and seek additional information on those recommendations.
- (e) *Notice of ordinances.*
 1. *Generally* . Notice of the proposed adoption of any ordinance rezoning property or substantially changing the permitted use categories within zoning districts shall be as provided below.
 2. *Less than five percent affected.* In cases in which the proposed rezoning or change in permitted use involves less than five percent of the land area of the municipality, the city shall:
 - a. Notify by regular mail each property owner whose land may be rezoned and each property owner whose land is within 300 feet of the perimeter of the property to be rezoned and whose address is known by reference to the latest tax rolls. This notice shall state the substance of the proposed ordinance and state the time and place of the planning board hearing and city commission hearings on the

ordinance. The notice shall be sent at least 30 days prior to the second city commission public hearing. A copy of the notice shall be kept available for inspection during regular business hours at the office of the clerk.

b. Post at least one sign for each 200 feet of road frontage along all roadways bordering the property or upon the determination by the planning director the distance between signs may be increased as long as sufficient notice is provided along any and all road frontages. The sign shall be 22 inches by 28 inches and shall be located within ten feet of the right-of-way and shall be visible from the right-of-way. The sign shall contain the following information:

1. Existing zoning classification of the land.
2. Proposed zoning classification of the land.
3. Date and time of the planning board meeting.
4. Date and time of the city commission meeting.
5. Location of the foregoing meetings.
6. The telephone number of the city department which can provide additional information concerning the proposed rezoning.

3. *Five percent or more affected.* In cases in which the proposed rezoning or change in permitted use involves five percent or more of the land area of the municipality, the city commission shall hold two advertised public hearings on the proposed ordinances. The first shall be held approximately seven days after the day the first advertisement is published. The second shall be held approximately two weeks after the first hearing and shall be advertised approximately five days prior to the hearing. The day, time and place of the second hearing shall be announced at the first. The advertisement shall be at least one-quarter page and shall not be placed in the legal notice and classified advertisement portion of the paper. The notice shall have a headline of type no smaller than 18 point and shall appear in the following form:

NOTICE OF ZONING (PERMITTED USE) CHANGE

The City of DeLand proposes to rezone (change the permitted use of) the land within the area shown in the map in this advertisement. A public hearing on the rezoning (change in permitted use) will be held on and at 7:00 p.m. at city hall.

The advertisement shall contain a geographic location map clearly indicating the area covered by the proposed ordinance and including major street names as a

means of identification of the area.

In place of publishing this advertisement the city may notify by mail each property owner whose land may be rezoned, and each owner whose land is within 300 feet of the perimeter of the property proposed to be rezoned and whose address is known by reference to the latest tax rolls. This notice shall state the substance of the proposed ordinance and state the time and place of the planning board hearing and city commission hearings on the ordinance. The notice shall be sent at least 30 days prior to the second city commission public hearing. A copy of the notice shall be kept available for inspection during regular business hours at the office of the clerk. Notice of ordinances proposing other amendments to this chapter shall be published as provided by general law.

4. *Historic overlay district—Less than ten acres.* For rezoning within the historic overlay district of a property or properties with a total of less than 10 acres, the city shall notify the owners of all properties proposed for rezoning by certified letter, return receipt requested, as well as comply with the notification requirements set forth in section 33-135.02(e)(2) above.
 5. *Historic overlay district—Ten acres or more.* For rezoning within the historic overlay district of a property or properties with a total of ten acres or more, the city shall notify the owners of all properties proposed for rezoning by certified letter, return receipt requested, as well as comply with the notification requirements set forth in section 33-135.02(e)(3) above.
- (f) *Factors to consider* . During the review of each application for rezoning or for changes in permitted uses, among the factors to be considered are the following:
1. Whether it is consistent with the Comprehensive Plan, and the land use, zoning patterns and character of the surrounding area.
 2. The impact upon the environment or natural resources.
 3. The impact upon the economy of any affected area.
 4. The impact upon governmental services.
 5. Any changes in circumstances or conditions affecting the area since the original assignment of zoning.
 6. Any mistakes in the original classification.
 7. The effect upon the use or value of the affected area.
 8. The impact upon the public health, safety and welfare.
- (g) *Rehearings on applications.* Neither the planning board nor the city

commission shall entertain or have jurisdiction to consider any rezoning application voted on by the city commission within the previous 180 days and based upon the same material facts and issues relevant to the application as originally presented. A rehearing may be considered 90 days after a vote on a rezoning application if there is a material change in the facts or issues relevant to the application.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-136. - Enforcement.

33-136.01. *Development permits and orders.*

(a) *Minor and major deviations defined.*

1. *Minor deviations.* A minor deviation is a deviation from a final development order that falls within the following limits and that is necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process:

a. Alteration of the location of any road, walkway, landscaping or structure by not more than ten feet.

b. Reduction of the total amount of open space by not more than ten percent, or reduction of the yard area or open space associated with any single structure by not more than ten percent; provided that such reduction does not permit the required yard area or open space to be less than that required by this chapter.

2. *Major deviations.* A major deviation is a deviation other than a minor deviation, from a final development order.

(b) *Inspections.* The building department shall implement a procedure for periodic inspection of development work in progress to insure compliance with the development permit and/or final development order, which authorized the activity.

(c) *Minor deviations.* If the work is found to have one or more minor deviations, the building department shall inform the planning department of the deviations. The planning department shall request a revised site plan from the applicant showing the deviations and amend the development order to conform to actual development. The department may, however, refer any minor deviation that significantly affects the development's compliance with the purposes of this chapter to the planning board for treatment as a major deviation.

(d) *Major deviations.*

1. If the work is found to have one or more major deviations, the

planning department shall:

- a. Place the matter on the next agenda of the city commission, allowing for adequate notice, and recommend appropriate action for the commission to take.
 - b. Request the building department to issue a Stop Work Order and/or refuse to allow occupancy of all or part of the development if deemed necessary to protect the public interest. The order shall remain in effect until the department determines that work or occupancy may proceed pursuant to the decision of the planning board.
 - c. Refer the matter to the code inspector, if it appears that the developer has committed violations within the jurisdiction of the code enforcement process.
2. The city commission shall hold a public hearing on the matter and shall take one of the following actions:
- a. Order the developer to bring the development into substantial compliance (i.e. having only minor deviations) within a reasonable period of time. The development order or permit may be revoked if this order is not complied with.
 - b. Amend the development order or permit to accommodate adjustments to the development made necessary by technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process. Amendments shall be the minimum necessary to overcome the difficulty, and shall be consistent with the intent and purpose of the development approval given and the requirements of this chapter.
 - c. Revoke the relevant development order or permit based on a determination that the development cannot be brought into substantial compliance and that the development order or permit should not be amended to accommodate the deviations.
- (e) *Action of developer after revocation of development order.* After a development order or permit has been revoked, development activity shall not proceed on the site until anew development order or permit is granted in accordance with procedures for original approval.
- (f) *Application for certificate of occupancy.* Upon completion of work authorized by a development permit or development order, and before the development is occupied, the developer shall apply to the building department for a certificate of occupancy. The building department shall inspect the work and issue the certificate if found to be in conformity with

the permit or order.

33-136.02. *Enforcement of code provisions.*

It shall be the duty of the code enforcement officer to initiate enforcement proceedings of the various codes of the City of DeLand including the provisions of this chapter. Enforcement actions shall follow the procedures outlined in chapter 7A and/or article II of chapter 1 of the Code of Ordinances of the City of DeLand ("the Code").

(Ord. No. 2002-09, §§ 1, 2, 2-18-02; Ord. No. 2003-20, § 1, 7-7-03; Ord. No. 2003-37, § 1, 9-3-03; Ord. No. 2004-09, § 1, 2-16-04)

Secs. 33-137—33-144. - Reserved for future use.