

ARTICLE XIII. - SUBDIVISION OF LAND

Sec. 33-145. - Generally.

Sec. 33-146. - Procedures for securing subdivision plat approval.

Sec. 33-147. - Installation and guarantee of improvements.

Sec. 33-148. - Subdivision improvement and design standards.

Sec. 33-149. - Exceptions and variances.

Sec. 33-150. - Penalties.

Sec. 33-145. - Generally.

33-145.01. *Applicability.* These regulations shall govern all subdivisions of land within the corporate limits of the City of DeLand, Florida, as now or hereafter established.

33-145.02. *Statement of intent.* The purpose of this article is to establish procedures and standards for the development and subdivision of real estate within the corporate limits of the City of DeLand, Florida, in an effort to, among other things, insure proper legal description, identification, monumentation (sic) and recording of real estate boundaries; further orderly layout and appropriate use of land; provide safe, convenient, and economic circulation of vehicular traffic; provide street lighting adequate to facilitate the observation of pedestrians adjacent to all vehicle use areas; provide suitable building sites which drain properly and are readily accessible to emergency vehicles; assure the installation of improvements; help conserve and protect the physical, economic and scenic resources of the City of DeLand; and promote the public health, safety and general welfare.

(Ord. No. 2010-16, § 16, 9-7-10)

33-145.03. *Jurisdiction.*

(a) *Subdivision plat required.* No real property shall be divided into two or more lots for the purpose, whether immediate or future, of sale or other transfer of ownership, nor shall development plans be approved or permits issued, without compliance with the requirements of this chapter.

(b) *Exemptions.* The following activities shall be exempt from the requirements of a subdivision plat:

1. The division of land into parcels of five acres or more where no new street right-of-way is proposed or required and each parcel has a minimum frontage along an existing dedicated public road of no less than 200 feet.

2. The combination or recombination of previously platted lots or

portions of lots, where the overall number of lots is not increased, current lot pattern is maintained, and all resultant lots meet or exceed the dimensional standards of this chapter.

3. The public acquisition of strips of land for the widening or opening of streets.
4. A minor subdivision shall be exempt from the review and approval of a plat, however development plans meeting the requirements of this chapter shall be reviewed by the technical review committee and approved by the planning director; except that any division of a tract or parcel of land located on the Local Register of Historic Places into two or more lots shall be reviewed by the historic preservation board, in accordance with sections 33-34.03(a)(1)f., (b)(5), and (c).

A minor subdivision is defined as meeting all of the following criteria:

- a. An overall tract in single ownership of no more than twenty acres is divided into no more than three lots.
 - b. No adjoining lots, tracts, or parcels are in the same ownership.
 - c. No new streets are proposed or required.
 - d. No dedication of right-of-way, drainage areas, conservation areas, or other publicly maintained property is proposed or required.
 - e. All proposed lots meet or exceed the dimensional requirements of article VIII and required easements for utility, drainage, conservation, or other purposes are delineated for transfer to the city as part of the development order.
 - f. Water and sewer services are available to serve the property.
- (c) *Expiration of incomplete subdivision applications.* Incomplete and/or conditionally approved subdivision applications for which the condition(s) of approval have not been met will expire six months from the date of issuance of the last city generated comment letter.

33-145.04. *Protection for prior platted subdivision lots.* Where a lot was a subdivided lot of record and the lot was useable as a conforming single-family residential building site at the time of recording, the lot may be used and occupied by a single-family dwelling and its accessory buildings provided the minimum yard setbacks of the current zoning district are complied with.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-146. - Procedures for securing subdivision plat approval.

33-146.01. *Generally.* The following procedures for securing subdivision plat approval shall be followed in submitting, reviewing, and acting upon all subdivision plats within the city limits of DeLand, Florida.

33-146.02. *Subdivision sketch plan.* As the first step in the plat review procedure the subdivider shall submit a sketch plan.

- (a) *Application procedure.* The subdivider shall submit a sketch plan of the proposed subdivision to the planning department. The fee for sketch plan review shall be set by resolution of the city commission.
- (b) *Required exhibits.* The sketch plan shall be drawn at an approximate scale of 200 feet to one inch or at such other scale as the city engineer may direct and shall show:
 - 1. Total acreage in the tract to be subdivided.
 - 2. Tentative street and lot arrangement.
 - 3. Approximate rights-of-way, measurements, and lot lines.
 - 4. Wooded areas, including the location of any specimen or historic trees as defined in section 33-57.03, and existing and proposed uses of land throughout the subdivision.
 - 5. Proposed waterways.
 - 6. Zoning classification of the tract.
- (c) *Determination of completeness.* Within five days of receipt of a subdivision sketch 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 subdivision sketch 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) *Review by technical review committee.* The subdivision sketch 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.

- (e) *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 subdivision sketch 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.
- (f) *Planning board review.* At the time the sketch plan is reviewed by the planning board, the subdivider or his representative shall discuss plans, which he may have for development of the proposed subdivision. After the sketch plan has been reviewed and the subdivider has agreed to meet the requirements of this chapter, the subdivider shall prepare the preliminary plat.
- (g) *Expiration.* The sketch plat, after being reviewed by the planning board, shall be valid for one year. A new sketch plat will have to be submitted to the planning board for review.

33-146.03. *Preliminary plat.* As the second step in the plat review procedure, the subdivider shall submit a preliminary plat.

- (a) *Application procedure.* The subdivider shall submit [a copy or copies] of the preliminary plat and any required exhibits to the planning department. The number of copies to be submitted will be determined by the planning department to ensure the city receives a sufficient amount for all reviewers. At the time of submission of the preliminary plat, the subdivider shall pay to the city a fee for purposes of administration. This fee shall be set by resolution of the city commission.
- (b) *Required exhibits.* The preliminary plat shall be prepared by a currently registered surveyor, or engineer at a scale of 100 feet to one inch or such other scale as approved by the city engineer. The city engineer shall also approve sheet size and title block. The following information shall be shown on the preliminary plat or on sheets attached thereto:
 - 1. General information.
 - a. Name of subdivision, owner, and surveyor or engineer.
 - b. Date of survey and plat preparation, north point, and graphic scale.
 - c. Surveyor's certificate of accuracy.
 - d. Total acreage in tract, acreage in public or other land usage, total number of lots, linear feet in streets.
 - e. Names and locations of adjoining subdivisions and streets.

- f. Existing zoning classification of the tract.
- g. A vicinity map drawn to a scale of 400 feet to one inch. A smaller scale is permissible if approved by the city engineer.
- h. Other supplemented materials or any deed restrictions and/or protective covenants proposed for the subdivision and any other information considered by either the subdivider, the planning board or city engineer to be pertinent to the review of the preliminary plat.

2. *Existing site data.*

- a. City limit lines, property lines, rights-of-way, easements, streets, railroads, utility transmission lines, storm sewers, ditches and culverts, sanitary sewers, water mains, bridges, buildings and bulkheads.
- b. Boundaries of the tract to be subdivided with all bearings and distances indicated.
- c. Wooded areas, marshes, watercourses, ponds, and other similar conditions affecting the site.
- d. Topography of the site at a contour interval of two feet.
- e. Soil tests as may be required by the city engineer.
- f. Tree survey.

3. *Proposed site data.*

- a. Street rights-of-way, pavement widths, grades and street names. (Street profiles and cross sections shall be provided when required by the city engineer.)
- b. Other rights-of-way or easements including location, dimensions, and purposes.
- c. Plans for sanitary sewers, storm sewers, water lines, or proposals for developing new water supply, storm drainage, and sewage disposal systems. (Storm and sanitary sewer profiles and cross sections shall be provided when required by the city engineer.)
- d. Contour changes or any created water bodies or changed watercourses.
- e. Bulkheads and bridges, if any.

- f. Lot lines, lot dimensions, lot and block numbers, and building setback lines along street rights-of-way.
 - g. Parks, school sites, and other public areas, if any.
 - h. Areas to be used for purposes other than residential and public, if any, and with the purpose, location and dimensions of each indicated.
- (c) *Determination of completeness.* Within five days of receipt of a preliminary plat, 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 preliminary plat 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) *Review by technical review committee.* The preliminary plat 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.
- (e) *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 preliminary plat 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.
- (f) *Planning board review.*
 - 1. Upon completion of the preliminary plat review, the planning board shall recommend that the city commission approve, approve conditionally, or disapprove the preliminary plat. The planning board may continue the review of the preliminary plat for good cause.
 - a. In case of a recommendation for conditional approval, the conditions to be met shall be specified in writing and reference shall be made to the specific sections of this chapter, with which the preliminary plat does not comply.

- b. When a recommendation is made that a preliminary plat be disapproved, the planning board shall specify the reasons for such recommendation in writing.
- c. 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. If applicant requests a delay in the transmittal of the preliminary plat to the city commission in writing, the delay may only be for six months. After the six-month delay, if the applicant has not submitted revised plans or has not requested an extension of up to an additional six months, the application will be deemed withdrawn and a new application for a preliminary plat will have to be submitted.

(g) *City commission action.*

1. The preliminary plat shall be approved, disapproved or tabled for cause by the city commission.
2. The signature of the mayor shall indicate approval of the preliminary plat.
3. If the preliminary plat is disapproved by the city commission, the reasons for disapproval shall be specified in writing and reference shall be made to the specified sections of this chapter with which the preliminary plat does not apply. The subdivider may make recommended changes and resubmit the preliminary plat for approval by the city commission.

(h) *Approval of preliminary plat.*

1. Upon approval of the preliminary plat by the city commission, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the preliminary plat as approved and the requirements of this chapter.
2. Approval of the preliminary plat shall not be construed as authority for filing of the plat with the Clerk of Circuit Court of Volusia County, nor as authority for the sale of lots in reference thereto. Approval of the preliminary plat shall, however, authorize the subdivider at his own risk prior to approval of the final plat to:

- a. Perform required improvements; subject to the requirements of section 33-147.02(b); or
 - b. Post a surety bond for required infrastructure improvements, as approved by the city attorney; or
 - c. Place a certified check or cash in escrow account as specified in section 33-147.03 to cover the cost of the required infrastructure improvements.
 - d. Provide an acceptable escrow agreement, with an FDIC-insured financial institution, inform and content subject to the approval of the city attorney.
3. Complete the appropriate form indicating which mechanism, identified in section 33-146(e)2. will be utilized to construct the required infrastructure. No clearing of trees on any lots or proposed building lots shall commence until a valid Tree Removal Permit has been issued for that specific lot.

(Ord. No. 2008-39, § 28, 9-3-08)

33-146.04. *Final plat.* As the third step in the plat action procedure, the subdivider shall submit a final plat. Submission of a final plat shall be required of every subdivider and lots shall not be sold nor any street accepted and maintained by the city, nor shall any permit be issued by the chief building official for the construction of any building within such subdivision unless and until the final plat has been approved by the planning board and the city commission, and duly recorded by the Clerk of the Circuit Court, Volusia County, Florida. Before submitting the final plat for review by the city commission, the subdivider shall have met all the requirements of sections 33-147 and 33-148 of this article.

(a) *Application procedure.*

1. The subdivider shall submit as the final plat only that portion of the approved preliminary plat which the subdivider proposes to record and develop at this time; such portion shall conform to all requirements of this chapter.
2. The subdivider shall submit the final plat to the city at least 15 days prior to the city commission meeting at which time the final plat is intended to be scheduled on the city commission's agenda. The number of copies to be submitted will be determined by the planning department to ensure the city receives a sufficient amount for all reviewers. An additional copy of the final plat shall be drawn or printed on mylar or other similar durable material for recording by the Volusia County Clerk of the Circuit Court and the City of DeLand.
3. At the time of submission of the final plat, the subdivider shall pay to

the DeLand City Clerk a fee as estimated by the city engineer and set by resolution of the city commission; however, in no event shall said fee be less than \$500.00. The fee is for the purpose of administration and inspection of site improvements.

4. Failure to apply for final plat approval within two years of preliminary plat approval shall result in the revocation of the preliminary plat approval. A time extension may be granted if the planning board recommends it and approved by the city commission.

(b) *Required exhibits.* The final plat shall be prepared by a currently registered surveyor or engineer at a scale of either 100 feet to one inch or such other scale as approved by the city engineer. The following information shall be shown on the final plat or on sheets attached thereto:

1. *General information.*

- a. Name of subdivision, owner and surveyor or engineer.
- b. Date of survey and plat preparation, north point and graphic scale.
- c. Names and locations of adjoining subdivisions and streets.
- d. Deed restrictions or protective covenants for the subdivision, if

any.

2. *Survey data.*

- a. Exact boundaries of the tract to be subdivided.
- b. Accurate location and description of all monuments, markers, and control points.
- c. Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and setback line, including linear dimensions, bearings or deflection angles, radii, arcs, chords, and central angles. (All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute.)

3. *Site data.*

- a. All rights-of-way, easements, and areas to be dedicated to public use with the purpose of each stated.
- b. Areas to be used for purposes other than residential and public, if any, with the purpose, location and dimensions of each indicated.
- c. Lot and block numbers and street names.
- d. Such cross sections and profiles of streets as may be required by

the city engineer.

e. Such engineering plans and drawings for water, sanitary sewers, and storm sewer systems, showing sizes, cross section and profiles as required by the city engineer.

f. Such engineering plans and drawings of bulkheads, bridges, and sidewalks, if any, showing cross sections and profiles as required by the city commission.

4. *Signed certificates.* The following certificates shall also appear on each copy of the final plat, which is submitted, to the city commission. Certificates (1), (2), and (3) shall be properly signed before the final plat is submitted to the city commission. Certificate (4) shall be properly signed after the city commission approves the final plat.

Number (1): Certificate of Ownership and Dedication.

I hereby certify that I am the owner of the property shown and described hereon and that I hereby adopt this plan of subdivision with my free consent, establish minimum setback lines and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I dedicate any and all storm sewer, sanitary sewer and water lines to the City of DeLand, Florida, as noted.

Date	Owner(s)
------	----------

Number (2): Certificate of Surveyor

Know all men by these presents, that the undersigned being a licensed and registered land surveyor, does hereby certify that on _____/_____/_____ he completed the surveying of the lands as shown in the accompanying plat, that said plat is a correct representation of the lands therein described and platted; that permanent reference monuments have been placed as shown thereon and complies with the requirements of Chapter 177, Florida Statutes; and that said land is located in Volusia County, Florida.

Dated: _____

By: _____/_____/_____

L.S. # _____/_____/_____

Number (3): Certificate of approval of the Design and Installation of Streets, Utilities and Other Required Improvements.

I hereby certify that all streets, utilities and other required improvements have been installed in an acceptable manner and according to city specifications and standards and all applicable regulations in the _____ Subdivision or that a guarantee of the installation of the required improvements in a manner according to Section 33-147 has been received.

City Engineer

Number (4): Certificate of Approval by the city commission.

The DeLand City Commission hereby approved the Final Plat for the _____ Subdivision.

_____	_____
Date	Mayor, DeLand (Seal)

(c) *City commission action.*

1. The city commission shall approve, disapprove or table for cause within 45 days of the date such plat was submitted to the city. Failure of the city commission to act within 45 days shall constitute final plat approval.
2. Before acting on the final plat, the city commission shall receive a written summary report from the city engineer certifying compliance with or noting deviations from the approved preliminary plat and the requirements of these regulations.
3. During its review, the city commission may appoint an engineer or surveyor to check the accuracy of the final plat. If substantial errors are found, the costs to resurvey will be charged to the subdivider.
4. If the final plat meets all the requirements of this chapter and complies with the approved preliminary plat, the city commission shall approve the final plat and indicate its approval on each copy by signature of the mayor.
5. When approved by the city commission, a copy of the final plat shall be returned to the subdivider after recording. The city shall file the approved final plat with the Volusia County Clerk of the Circuit Court after its approval by the city commission or such approval shall be null and void. Before the recording of the plat, the plat must reflect all conditions and changes requested by the city commission.

Recording fee to be paid by subdivider.

6. If the final plat is disapproved by the city commission, the reasons for disapproval shall be stated in writing and reference shall be made to the sections of this chapter with which the final plat does not comply. A copy of such explanation shall be sent to the planning board and to the subdivider.

(Ord. No. 2008-39, § 29, 9-3-08)

33-146.05. *Preliminary plat/final plat process.* Should the subdivider choose to process both the preliminary plat and the final plat at the same time the following review process shall be followed.

(a) *Application procedure.*

1. The application shall state that the combined preliminary plat and final plat process has been chosen by the subdivider.
2. The subdivider shall submit the preliminary plat/final plat and any required exhibits to the planning department. The number of copies to be submitted will be determined by the planning department to ensure the city receives a sufficient amount for all reviewers. At the time of submission of the preliminary plat/final plat, the subdivider shall pay to the city a fee for purposes of administration that reflects the fee of the preliminary plat and shall also include the recording fee. This fee shall be set by resolution of the city commission.
3. At the time of recording of the final plat, the subdivider shall pay to the DeLand City Clerk a fee as estimated by the city engineer and set by resolution of the city commission; however, in no event shall said fee be less than \$500.00. The fee is for the purpose of administration and inspection of site improvements.

(b) *Required exhibits.* The preliminary plat/final plat shall be prepared by a currently registered surveyor or engineer at a scale of either 100 feet to one inch or such other scale as approved by the city engineer. The city engineer shall also approve sheet size and title block. The following information shall be shown on the preliminary plat or on sheets attached thereto. The information required for both the preliminary plat and the final plat per sections 33-146.03(b) and 33-146.04(b) shall be shown on the preliminary plat/final plat submission or on sheets attached thereto.

(c) *Determination of completeness.* Within five days of receipt of a preliminary plat/final plat, 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 preliminary plat/final

plat remain in the current review cycle. Thereafter, the developer may cure the deficiencies within six (6) months without payment of a reapplication fee, but, if more than six (6) 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) *Review by technical review committee.* The preliminary plat/final plat 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.
 - (e) *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 preliminary plat/final plat 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.
 - (f) *Planning board review.*
 1. Upon completion of the preliminary plat/final plat review, the planning board shall recommend that the city commission approve, approve conditionally, or disapprove the preliminary plat/final plat. The planning board may continue the review of the preliminary plat/final plat for good cause.
 - a. In case of a recommendation for conditional approval, the conditions to be met shall be specified in writing and reference shall be made to the specific sections of this chapter, with which the preliminary plat/final plat does not comply.
 - b. When a recommendation is made that a preliminary plat/final plat be disapproved, the planning board shall specify the reasons for such recommendation in writing.
 - c. 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.
 - (g) *City commission action.*
 1. The city commission shall approve, disapprove or table for cause the

preliminary plat/final plat.

2. If the preliminary plat/final plat meets all the requirements of this chapter, the city commission shall approve the preliminary plat/final plat and indicate its approval on each copy by signature of the mayor. If the preliminary plat/final plat does not meet the requirements of this chapter, the city commission may place conditions upon the plat that must be addressed prior to recording of the plat.
3. If the preliminary plat/final plat is disapproved by the city commission, the reasons for disapproval shall be stated in writing and reference shall be made to the sections of this chapter with which the preliminary plat/final plat does not comply. A copy of such explanation shall be sent to the planning board and to the subdivider.

- (h) *Recording final plat.* Before submitting the preliminary plat/final plat for recording, the subdivider shall have met all the requirements of parts sections 33-147 and 33-148

The subdivider shall submit the preliminary plat/final plat to the city. The number of copies to be submitted will be determined by the planning department to ensure the city receives a sufficient amount for all reviewers. One copy of the preliminary plat/final plat shall be drawn or printed on cronaflex, mylar, or other similar durable material for recording by the Volusia County Clerk of the Circuit Court and the city.

The city shall file the approved preliminary plat/final plat with the Volusia County Clerk of the Circuit Court after the subdivider has resubmitted the plat addressing the conditions required by the city commission. If a revised plat has not been resubmitted within one year after the city commission approved with conditions such approval shall be null and void. When approved by the city commission, a copy of the preliminary plat/final plat shall be returned to the subdivider after recording. Recording fee to be paid by subdivider.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02; Ord. No. 2005-65, § 17, 12-19-05; Ord. No. 2008-39, § 30, 9-3-08)

Sec. 33-147. - Installation and guarantee of improvements.

33-147.01. *Generally.* Final plats for subdivisions within the corporate limits of DeLand shall not be approved until the subdivider has installed the required improvements listed in section 33-147.02 or has guaranteed to the satisfaction of the city, according to section 33-147.03, that such improvements will be installed.

33-147.02. *Required improvements.*

- (a) *Timing and specifications.* All required improvements shall be installed before the final plat is approved and constructed in conformity with the requirements and standards set forth in this chapter and all other

specifications of the City of DeLand. All improvement plans and improvements shall be inspected and approved by the city engineer as conforming to this chapter and all other city specifications. All improvement specifications are on file in the city engineer's office.

(b) *Improvements required.* The following improvements are required:

1. Survey reference markers.
2. Street grading, base preparation, and paving.
3. Storm drainage system and including retention areas, if required.
4. Curbs and gutters.
5. Sidewalks, as required by the planning board and city commission.
6. Sanitary sewage disposal system.
7. Water supply system.
8. Street name markers.
9. Bulkheads, if any.
10. Bridges, if any.
11. Replacement trees, as required by section 33-57 of this chapter.
12. Streetlights.

(Ord. No. 2010-16, § 17, 9-7-10)

33-147.03. *Subdivider's guarantee in lieu of all improvements installation.*

- (a) *Allowable forms of guarantee.* The subdivider's guarantee, in lieu of all improvements installation, shall be a performance of surety bond satisfactory to the city attorney as to form and content, or a certified check; or cash deposited in an escrow account with interest accruing to subdivider.
- (b) *Period for completion of improvements.* The subdivider's guarantee, regardless of form, shall provide that the improvements required shall be completed within one year from the date the certified check or surety bond is posted with the city.
- (c) *Assurance of maintenance of street lights.* The subdivider shall provide for the perpetual maintenance, repair, replacement, and operation of street lights through a Homeowner's Association (HOA) agreement.
- (d) *Failure to complete improvements.* Failure to complete the improvements within one year shall be cause for default and the city shall take such

remedial steps as necessary to complete construction as otherwise required herein utilizing the certified check or calling upon the surety for faithful performance. The amount of such guarantees shall be in an amount that is 110 percent of the construction costs of all improvements, including landfill, as estimated by the city engineer. The bonding company shall meet city specifications.

(Ord. No. 2010-16, § 18, 9-7-10)

33-147.04. *Maintenance guarantee of improvements.* The city commission shall require cash in escrow or maintenance warranty bond guaranteeing all improvements against defects for one year after the acceptance of such improvements by the City of DeLand. (Such improvements must be accepted, accepted with conditions, or rejected by the city within 60 days following the installation of improvements). This bond, satisfactory to the city attorney as to form and content, shall be in the amount of ten percent of the construction costs and shall be submitted in acceptable form when the city accepts the improvements.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-148. - Subdivision improvement and design standards.

33-148.01. *Generally.*

- (a) *Approval of final plat.* Approval of the final plat shall be subject to the subdivider having installed the required improvements or having guaranteed with proper bond, according to section 33-147; the installation of said improvements. The city engineer shall be responsible for inspecting and approving all improvement plans and improvements for consistency with improvement specifications on file in the city engineer's office.
- (b) *Minimum requirements.* The following requirements shall be minimum requirements. Where other official engineering and public works standards and specifications are more stringent, such higher standards shall be used.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

33-148.02. *Permanent survey reference point.*

- (a) *Compliance with Florida law.* Permanent survey reference monuments shall be installed in all subdivisions in accordance with ch. 177, Florida Statutes, and the following requirements:
- (b) *Subdivision corner tie.* Course and distance (tie) from a readily discernible

reference marker, such as a U.S. government marker, section corner, or quarter-section corner shall designate at least one corner of the subdivision. When such a monument or station is not available, the tie shall be made to some pertinent and readily recognizable landmark or identifiable point, physical object or structure.

- (c) *Monuments.* At least two monuments shall be installed as control corners within each block within the subdivision. The surveyor shall install additional monuments if required by the city engineer. All monuments shall be constructed of concrete and shall be at least three inches in diameter or square and not less than two feet in length. Each monument shall have imbedded in its top or attached by a suitable means a metal plate of noncorrosive materials marked plainly with the point, the surveyor's registration number, and the month and year it was installed, and the words "Permanent Reference Monument" or the initials "P.R.M.". Monuments shall be set in the ground so that the top is flush with the finish grade.
- (d) *Survey accuracy.* The allowable angular error of closure and linear error of closure for surveys shall be as follows:
 - 1. Angular error of closure shall not exceed 25 seconds times the square root of the number of angles turned. Total error shall be no greater than 40 seconds.
 - 2. Linear error of closure shall not exceed one foot per 7,500 feet measured on the perimeter.

33-148.03. *Other improvement and design standards.* All other improvement and design standards shall be as prescribed in articles VI and VIII of this chapter.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-149. - Exceptions and variances.

33-149.01. *Exceptions.* The standards and requirements of this article may be modified by the city commission upon recommendation of the planning board in the case of a plan or program for a complete group development, which, in the judgment of the board, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan. This provision is intended to encourage innovations in housing types and subdivision design.

33-149.02. *Variances.* Where, because of topographical or other conditions peculiar to the site, strict adherence to the provisions of the regulations of this

article would cause unnecessary hardship the planning board may recommend and the city commission authorize a variance, if such variance can be made without destroying the intent of this article. Any variance thus authorized is required to be entered in writing in the minutes of the planning board and of the city commission and the reasoning on which the departure was justified set forth.

(Ord. No. 2002-09, §§ 1, 2, 2-18-02)

Sec. 33-150. - Penalties.

33-150.01. *Violation a misdemeanor.*

- (a) Any person who, being the owner or agent of the owner of any land located within the platting jurisdiction granted to the municipality, thereafter transfers or sells such land by reference to a plat showing a subdivision of such land before such plat has been approved by said legislative body and recorded in the office of the Clerk of the Circuit Court, Volusia County, shall be guilty of a misdemeanor and the description of metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not except the transaction from such penalties.
- (b) A violation of this article shall constitute a misdemeanor of the second degree and each day of violation shall constitute a separate offense, and jurisdiction is conferred upon the municipal court to impose penalties as prescribed by state law which is incorporated herein by reference, and the city attorney is authorized to prosecute such cases.

33-150.02. *Injunction.* The city through the city attorney or other official designated by the city commission may enjoin such transfer or sale by action for injunction.

Editor's note— (Additional chapter history continued from footnote on page 1 of this chapter)— Ord. No. 2008-39, adopted Sept. 3, 2008, amended the Code by amending the following: § 1 amended § 33-12 by renumbering (58)—(126) as (59)—(127) and adding a new (58) and renumbering (127)—(295) as (129)—(297) and adding a new (128), § 2 amended § 33-17.12.(c)7., § 3 amended § 33-17.14(c)16., and renumbered (d)13. and (d)14. as (d)14. and (d)15., § 4 amended § 33-17.15 by renumbering (c)3.—6. as (c)4.—7. and adding a new (c)3., § 5 amended § 33-17.18 by renumbering (c)6.—16. as (c)7.—17. and adding a new (c)6., § 6 added §§ 33-22—33-22.03, § 7 amended § 33-24.02(t), § 8 amended § 33-33.08(e), § 9 amended § 33-34.02(c)5., § 10 amended § 33-41.01, § 11 amended § 33-41.03(b)1.b., § 12 amended § 33-41.03(b)2.a.1. and added (b)(2)f., § 13 amended § 33-41.03(c) and added (d)4., § 14 amended § 33-41.04(a)1.a., deleted § 33-41-04[A], relettered (b) and (c) as b. and c., deleted (d), relettered (e) as d., renumbered (e)1.—5. as 2.—6. and added 7., and § 33-41.04(b), (b)(5), § 15 amended § 33-41.05(a), § 16 added § 33-41.06(a)2., § 17 added § 33-41.07, § 18 amended § 33-73.02, § 19 amended § 33-74.02(c), § 20 amended § 33-74.05, § 21 amended § 33-93.08, § 22 amended § 33-101, § 23 amended §§ 33-103.01—33-103.03, added § 33-103.03(f), relettered § 33-103.04(a)—

(c) as (c)—(e) added (f), (h) relettered (d) as (g), and § 33-103.05(a), (b), § 24 relettered § 33-121.04(j) as (k) and added a new (j), § 25 deleted § 33-122, § 26 amended § 33-132.07(b), (f), § 27 amended § 33-132.10(e)1., 3., § 28 amended § 33-146.03(a), (f)1.c., § 29 amended § 33-146.04(a)2., and § 30 amended § 33-146.05(a)2., (h). Ord. No. 2007-12, adopted Feb. 5, 2007, amended the Code by amending the following sections: § 1, amended § 33-12; § 2 amended § 33-16.02; § 3 added § 33-17.12 and renumbered §§ 33-17.12—33-17.17 as 33-17.13—33-17.18; § 4 amended § 33-17.10(d); § 5 amended § 33-17.13(b); § 6 amended § 33-17.13(c)14.; § 7 added § 33-17.14(b)16. and renumbered 16.—51. as 17.52.; § 8 amended § 33-17.14(d); § 9 amended § 33-17.15(d); § 10 amended § 33-17.151(b)§ 11 amended § 33-17.151(d); § 12 amended § 33-17.17(d); § 13 amended § 33-17.18(d); § 14 amended § 33-18; § 15 amended § 33-20.01(b); § 16 amended § 33-27.03(c)3.; § 17 amended § 33-27.04(b)1.; § 18 amended § 33-28.03(a), (b)6.; § 19 amended § 33-28.05(a); § 20 amended 33-28.06(d)2.; § 21 amended § 33-28.08(a); § 22 amended § 33-75.01; and § 23 amended § 33-87. Ord. No. 2006-10, § 1, adopted Feb. 20, 2006, amended the Code by adding § 33-72(e), (f), and relettering (e)—(g) as (g)—(i). Ord. No. 2006-03, § 1, adopted Jan. 4, 2006, amended the Code by repealing § 33-72(e)—(j), (l)—(n), and (p)5., relettering (k) as (e) and (o) and (p) as (f) and (g) and renumbering 6.—13. as 5.—12.; and section 2 of the ordinance amended § 33-79.01(4). Ord. No. 2005-65, adopted Dec. 19, 2005, amended the Code as follows: § 1, amended § 33-16.04(b); § 2, added § 33-17.11(b)12. and renumbered 12. as 13.; § 3 amended § 33-17.11(d); § 4 added § 33-17.13(b)13. and renumbered 13.—51. as 14.—52.; § 5 amended § 33-17.3(d); § 6 added § 33-17.141(b)10. and renumbered 10.—46. as 11.—47.; § 7 amended § 33-17.141(d); § 8 added § 33-17.16(b)5. and renumbered 5.—38. as 6.—39; § 9 amended § 33-17.16(d); § 10 amended § 33-18; § 11 amended § 33-32.02(a)1.; § 12 amended § 33-94.06(b)—(d); § 13 amended § 33-124; § 14 amended §§ 33-131.01—131.09; § 15 amended § 33-133; § 16 amended § 33-134.09; and § 17 amended §§ 33-146.01—146.05. Ord. No. 2004-62, §§ 1—8, adopted Dec. 20, 2004, amended the Code by amending the following sections: 33-12, 33-17.07(b), 33-17.071(b), 33-17.08(b), 33-17.11(b), 33-17.12(c), 33-17.13(c), and 33-17.141(b); Ord. No. 2004-61, § 1, adopted Dec. 21, 2004, amended the Code by amending § 33-12; Ord. No. 2004-60, § 1, adopted Dec. 20, 2004, amended the Code by amending § 34-12; Ord. No. 1003-30, § 1, adopted Aug. 16, 2004, amended the Code by amending § 33-27.04; Ord. No. 2004-39, §§ 1—9, adopted Oct. 18, 2004, amended the Code by amending the following sections: 33-12, 33-57.02(b)2., (c)1.—3., and (d); 33-57.06(a)2.; 33-57.08(b)1. and Ch. 33, Art. 6, Addendum A; Ord. No. 2004-25, § 1, adopted June 21, 2004, amended the Code by adding § 33-95 related to public safety 800 MHz radio amplification system. Ord. No. 2004-14, § 1, amended subsection 33-94.02(c). Ord. No. 2004-10, § 1 amended subsections 33-17.13(a), (b) and (d); § 2 amended subsections 33-17.141(a), (c) and (d); § 3 amended § 33-18; and § 4 amended subsection 33-27.04(a)(3) and (4). Ord. No. 2004-09, § 1, adopted Feb. 16, 2004, amended § 33-16.02. Ord. No. 2003-37, § 1, adopted Sept. 3, 2003, amended § 33-12. Ord. No. 2003-20, adopted July 7, 2003, amended the Code as follows: § 1 amended § 33-12 and § 2 added § 33-94. Ord. No. 2002-09, adopted Feb. 18, 2002, repealed ch. 33 in its entirety and enacted a new ch. 33 as set out herein. The chapter was further amended by Ord. No. 2002-42, § 1, which amended subsection 33-132.07(I). Ord. No. 2002-41, adopted Oct. 21, 2002, amended the Code as follows: § 1 amended § 33-73.02(s); § 2 added subsection 33-74.02(e) and § 3 amended subsection 33-74.04(c)4. Ord. No. 2002-38, adopted Sept. 16, 2002, amended the Code as follows: § 1 amended § 33-

132.0(A)3(f); § 2 amended § 33-134.03; § 4 amended § 33-134.05; and § 4 amended § 33-134.06. Ord. No. 2000-10, § 1, added § 33-17.13(b)23. and renumbered 23.—50. as 24.—51.