

Chapter 38 ENVIRONMENT¹

ARTICLE I. IN GENERAL

Secs. 38-1—38-30. Reserved.

ARTICLE II. RESERVED²

Secs. 38-31—38-66. Reserved.

ARTICLE III. NOISE³

Sec. 38-67. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All terminology used in this article, not specifically defined, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

Agricultural use means the use of land in horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, beekeeping, pisciculture and all forms of farm products and farm production. ~~means the land uses where agricultural activities are legally permitted.~~

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dBA.

Commercial means the land uses where retail sales and services, professional, tourist and other commercial activities are legally permitted.

Construction means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or on public or private rights-of-way, structures, utilities or similar property.

Daylight hours means one-half hour before sunrise and one-half hour after sunset.

Commented [EH1]: Updated definition to match what is listed in Sec. 26-50

¹Cross reference(s)—Animals, ch. 14; buildings and building regulations, ch. 18; solid waste, ch. 50; streets, sidewalks and other public places, ch. 58; concurrency management, ch. 86; flood control, ch. 90; natural resources protection, ch. 98; subdivisions, ch. 106; zoning, ch. 110.

²Editor's note(s)—Ord. No. 16-98, § 1, adopted May 3, 1999, repealed §§ 31—35 in their entirety. Formerly, said sections pertained to abandoned vehicles. Further, said ordinance set out provisions pertaining to abandoned vehicles as Ch. 66, Art. III. See the Code Comparative Table.

³State law reference(s)—Motor vehicle noise, F.S. §§ 316.293, 403.415.

22 *Decibel (dB)* means a unit for describing the amplitude of sound, equal to 20 times the logarithm to the base
23 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per
24 square meter.

25 *Emergency work* means any work performed for the purpose of preventing or alleviating physical trauma or
26 property damage threatened or caused by an existing or imminent peril.

27 *Environmental control officer* means the director of the city environmental control division.

28 *Noise* means any sound that annoys or disturbs humans or causes or tends to cause an adverse psychological
29 or physiological effect on humans. The term is used synonymously with the term "sound."

30 *Noise disturbance* and *sound disturbance* means any sound in quantities that are or may be potentially
31 harmful or injurious to human health or welfare, animal or plant life or property, or unnecessarily interfere with
32 the enjoyment of life or property, including outdoor recreation, of a reasonable person with normal sensitivities.

33 *Pure tone* means any sound that can be distinctly heard as a single pitch or a set of single pitches. For the
34 purposes of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band
35 with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave
36 bands by five decibels for center frequencies of 500 H_z and above, and by eight decibels for center frequencies
37 between 160 and 400 H_z, and by 15 decibels for center frequencies less than or equal to 125 H_z.

38 *Real property line* means an imaginary line along the surface, and its vertical plane extension, which
39 separates the real property owned, rented or leased by one person from that owned, rented or leased by another
40 person, excluding intrabuilding real property divisions.

41 *RMS (root mean square)* means the square root of the mean of a set of squared values.

42 *Sound* means an oscillation in pressure, stress, particle displacement, particle velocity or other physical
43 parameter, in a medium with internal forces. The description of sound may include any characteristic of such
44 sound, including duration, intensity and frequency. The term is used synonymously with the term "noise."

45 *Sound level* means the weighted sound pressure level obtained by the use of a metering characteristic and
46 weighting A, B or C as specified in American National Standards Institute specifications for sound level meters,
47 ANSI S1.4-1971, or in successor publications. If the weighting employed is not indicated, the A-weighting shall
48 apply.

49 *Sound level meter* means an instrument that includes a microphone, amplifier, RMS detector, integrator or
50 time averager, output meter and weighting networks used to measure sound pressure levels. The output meter
51 reads sound pressure level when properly calibrated, and the instrument is of type 2 or better, as specified in the
52 American National Standards Institute publication S1.4-1971, or its successor publications.

53 *Sound pressure* means the instantaneous difference between the actual pressure and the average or
54 barometric pressure at a given point in space, as produced by the presence of sound energy.

55 *Sound pressure level* means 20 times the logarithm to the base 10 at the ratio of the RMS sound pressure to
56 the reference pressure of 20 micropascals (20×10^{-6} N/m²). The sound pressure level is denoted L_p or SPL and is
57 expressed in decibels.

58 *Special variance* and *variance* mean an authorization, issued by the city manager or his duly authorized
59 representative, to exceed the sound level limit for a specified period of time.

60 (Ord. No. 96-15, § I(50-491), 3-4-1996)

61 Cross reference(s)—Definitions generally, § 1-2.

62 **Sec. 38-68. Penalty; confiscation of noise-creating equipment; responsibility for violations.**

- 63 (a) Violations of this article are punishable as provided in section 1-15. Any person who continues to violate the
64 provisions of this article after having been previously cited may be subject to further citations, including
65 further citations issued on the day upon which the original citation was issued.
- 66 (b) Upon conviction of being in violation of this article three times for the same offense within a 12-month
67 period, when such sound is created by the same sound emitter, the noise-creating equipment may be
68 confiscated by the court following such latest conviction until such time as the offender can satisfy the court
69 that he is prepared to and in fact will operate the equipment within the limits of this article. Further violation
70 shall result in the permanent confiscation by the court upon such conviction.
- 71 (c) The owner of property, a tenant, a lessee, a manager, an overseer, an agent, corporation or any other person
72 entitled to lawfully possess or who claims unlawful possession of such property at a particular time involved
73 shall each be responsible for compliance with this article, and each may be punished for violation of this
74 article. It shall not be lawful defense to assert that some other person caused such sound, but each lawful
75 possessor or claimant of the premises shall be responsible for operating or maintaining such premises in
76 compliance with this article and shall be punishable, whether or not the person actually causing such sound
77 is also punished.

78 (Ord. No. 96-15, § I(50-492), 3-4-1996)

79 **Sec. 38-69. Additional remedies.**

80 The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions
81 of this article that endangers the comfort, repose, health and peace of residents in the city is declared to be a
82 public nuisance; and the city is authorized to pursue any and all remedies. Nothing in this article shall be construed
83 to limit any private right of action.

84 (Ord. No. 96-15, § I(50-493), 3-4-1996)

85 **Sec. 38-70. Enforcement standards.**

86 Authorized enforcement personnel may use a certified sound level meter to measure noise at or near the
87 property line of the place receiving the noise, in a public right-of-way, or at another location allowed by the
88 measurement procedures in this section. Standards for enforcement of this article shall be in accordance with
89 those set forth in addendum A following this article. Amendments to the enforcement standards may be made by
90 the city manager, based upon best professional information available to him, which are necessitated by changes in
91 sound measuring equipment or changes in prevailing academic, technical or operational criteria. Such
92 amendments shall become effective upon filing them in writing with the secretary of state.

93 (Ord. No. 96-15, § I(50-495), 3-4-1996)

94 **Sec. 38-71. Sound limitations established; applicability.**

- 95 (a) *Classification of use occupancy.* For the purposes of defining the use occupancy under this article, all
96 premises containing habitually occupied sleeping quarters shall be considered residential use. All premises
97 containing transient commercial sleeping quarters shall be considered tourist use. All premises containing
98 business where sales, professional or other commercial use is legally permitted, including hospitals, shall be
99 considered commercial use. All premises where manufacturing is legally permitted shall be considered
100 manufacturing use. In cases of multiple use, the more restrictive use category shall prevail. Nursing homes,

Commented [PM2]: Include: Coordination with Volusia Sheriff Office in accordance with Ch.1 Sec. 15.

Authorized enforcement personnel may use a certified sound level meter to measure noise at or near the property line of the place receiving the noise, in a public right-of-way, or at another location allowed by the measurement procedures in this section.

Commented [EH3]: No Addendum A found.

101 schools, libraries and church uses shall be considered residential uses. Any area not otherwise classified shall
 102 conform to commercial standards.

103 (b) Measurement of sound. Sound must be measured using a certified sound level meter (Certified Decibel
 104 Meter) that meets the standards listed in section noted above. The meter us to be kept in good working
 105 condition and calibrated regularly to ensure accurate readings. Standards, instrumentation, personnel,
 106 measurement procedures and reporting procedures to be used in the measurement of sound as provided for
 107 in this article shall be those as specified in section 38-70.

108 (c) *Maximum permissible sound levels by use occupancy.* No person shall operate or cause to be operated any
 109 source of sound from any occupancy in such a manner as to create a sound level which exceeds the limits set
 110 forth for the use occupancy category in table I, more than ten percent of any measurement period, which
 111 shall not be less than ten minutes when measured at or beyond the property boundary of the land use from
 112 which the sound emanates.

113 TABLE I

Use Occupancy Category	Time	Sound Level Limit (dBA)
Residential	7:00 a.m. to 10:00 p.m.	60
	After 10:00 p.m. to 6:59 a.m.	55
Commercial or tourist	7:00 a.m. to 10:00 p.m.	65
	After 10:00 p.m. to 6:59 a.m.	60
Manufacturing	At all times	75
Agricultural	At all times	75

114
 115 (d) *Exceptions.* The following uses and activities shall be exempt from noise level regulations except as listed in
 116 table I:

- 117 (1) Air conditioners are exempt from provisions of table I when this equipment is functioning in accord
 118 with the manufacturer's standard mufflers and noise-reducing equipment in use and in proper
 119 operating condition according to standards promulgated by the American Refrigeration Institute. The
 120 same exception shall apply to lawn mowers and agricultural equipment during daylight hours.
- 121 (2) Nonamplified crowd noises resulting from activities such as those planned by student government,
 122 community groups or racing/sport events are exempt.
- 123 (3) Construction operations for which building permits have been issued or construction operations not
 124 requiring permits due to ownership of the project by an agency of government, providing all
 125 equipment is operated in accord with the manufacturer's specifications and with all standard
 126 equipment, manufacturer's mufflers and noise-reducing equipment in use and in proper operating
 127 condition. Such construction shall not begin prior to 7:00 a.m. and shall cease by 7:00 p.m. unless a
 128 special permit has been granted by the city.
- 129 (4) Noises of safety signals, warning devices, pressure relief valves, and bells and chimes of churches are
 130 exempt, except as otherwise provided by this Code.
- 131 (5) Noises resulting from any authorized emergency vehicle when responding to an emergency call or
 132 acting in time of emergency are exempt.
- 133 (6) Noises resulting from emergency work are exempt.

Commented [PM4]: Sound must be measured using a certified sound level meter (Certified Decibel Meter) that meets the standards listed in section noted above. The meter us to be kept in good working condition and calibrated regularly to ensure accurate readings.

Commented [EH5R4]: Code enforcement wants to use scientific measurements in lieu of subjective interpretation.

Commented [PM6]: Expand exception to include wide range of **authorized events** permitted by the City:

- Organized sporting events
- Religious events
- Education events
- Other group activities

When conducted on improved property exempt crowd noise that may be designed for generally used for:

- Bandshells
- Amphitheatres
- Stadiums
- Parks
- Schools
- Churches
- Athletic fields
- Racetracks
- Uses of property that are otherwise permitted by applicable city ordinance.

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- 134 (7) Any other noise resulting from activities of a temporary duration permitted by law and for which a
135 license or permit has been granted by the city in accordance with subsection (e) of this section is
136 exempt.
- 137 (8) Noises made by persons having obtained a permit to use the streets are exempt.
- 138 (9) All noises coming from the normal operations of railroad trains are exempt.
- 139 (10) All noises coming from the normal operations of aircraft (not including scale model aircraft) are
140 exempt.
- 141 (11) Those motor vehicles controlled by F.S. § 316.293 are exempt, but not those motor vehicles exempted
142 from coverage.
- 143 (12) Motor vehicles defined in F.S. § 316.293(6)(a) and (b) are exempt.
- 144 (e) *Special permits.* Applications for a permit for relief from the maximum allowable noise level limits designated
145 in this article may be made in writing to the city manager or his duly authorized representative. Any permit
146 granted by the city manager under this subsection must be made in writing and shall contain all conditions
147 upon which the permit shall be effective. The city manager or his duly authorized representative may grant
148 the relief as applied for under the following conditions:
- 149 (1) The city manager may prescribe any reasonable conditions or requirements as he deems necessary to
150 minimize adverse effects upon the community or the surrounding neighborhood, including use of
151 mufflers, screens or other sound-attenuating devices.
- 152 (2) Permits may be granted for the purpose of entertainment under the following conditions:
- 153 a. The function must be open to the public (admission may be charged).
- 154 b. The function must take place on public property.
- 155 c. The permit will be given only for four hours in one 24-hour day.
- 156 d. The function must be staged between the hours of 9:00 a.m. and 12:00 midnight.
- 157 (3) Special permits for nonentertainment special purposes may be issued under the following conditions:
- 158 a. 1.
159 If the special purpose relates to the operation of a trade or business, that the special purpose not
160 be in the ordinary course of that trade or business;
- 161 2. If the special purpose does not relate to the operation of a trade or business, that the
162 special purpose not be an ordinary event in the affairs of the applicant; and
- 163 b. If the special purpose be a recurring purpose, that it not recur more often than four times each
164 calendar year;
- 165 c. 1.
166 That the special purpose be absolutely necessary to the operation of the applicant's trade or
167 business; or
- 168 2. If the special purpose does not relate to the operation of the trade or business, that the
169 special purpose be compatible with the ordinary activities of the neighborhood in which
170 the special purpose is to occur;
- 171 d. Except in emergency situations, as determined by the city manager, the special permit may be
172 issued only for four hours between 7:00 a.m. and 11:00 p.m. on weekdays; and
- 173 e. Special permits may be issued for no longer than 15 consecutive days, renewable by further
174 application to the city manager.

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175 (4) No permit may be issued to permit the use of any loudspeaker or sound-amplifying device on the
176 exterior of any building that at any time exceeds the sound level limits in table I of this section, except
177 those used for emergency warnings.

178 (Ord. No. 96-15, § I(50-496), 3-4-1996; Ord. No. 12-00, § 1, 8-7-2000; Ord. No. 16-01, § 1, 6-4-2001)

179 **Sec. 38-72. Exceeding sound limitations.**

180 It shall be unlawful, except as expressly permitted in this article, to make, cause or allow the making of any
181 noise or sound that exceeds the limits set forth in this article.

182 (Ord. No. 96-15, § I(50-497), 3-4-1996)

183 **Sec. 38-73. Loud, disturbing or unnecessary noises.**

184 (a) Some sounds may be such that they are not measurable or may not exceed the limits set out in this article,
185 but they may be excessive, unnatural, prolonged, unusual and are a detriment to the public health, comfort,
186 convenience, safety, welfare or prosperity of the residents of the city.

187 (b) With the exception of those exemptions provided by state law, noises prohibited by this article are unlawful
188 notwithstanding the fact that no violation of section 38-71 is involved, and notwithstanding the fact that the
189 activity complained about is exempted in section 38-71(d).

190 (c) Thus, the following acts, among others, are declared to be loud, disturbing and unnecessary noises in
191 violation of this article; but this enumeration shall not be deemed to be exclusive:

192 (1) The sounding of any horn or signaling device on any automobile or other vehicle, except as a danger
193 warning;

194 (2) Construction. Operating or permitting the operation of any tools or equipment used in construction,
195 drilling, or demolition work between the hours of 7:00 p.m. and 7:00 a.m., in such a manner as to
196 cause a noise disturbance to any resident or guest across a residential or tourist property boundary,
197 except for emergency work by public service utilities, by government agencies, or by special permit
198 approved by the city;

199 (3) The sounding of any signaling device for any unnecessary or unreasonable period of time;

200 (4) The unreasonable use of any signaling device;

201 (5) The using, operating or permitting to be played, used or operated of any radio, television, tape or
202 record player, amplifier, musical instrument or other machine or device used for the production,
203 reproduction or emission of sound;

204 (6) Any prolonged sounds made by people; and

205 (7) The keeping of any animal that causes frequent or long, continuous noise in such a manner as to
206 disturb the public peace, quiet and comfort of the neighboring inhabitants or at any time with greater
207 intensity than is necessary for convenient hearing for the persons who are in the room, vehicle or
208 chamber in which such sound emitter is operated and who are voluntary listeners thereto. Quieter
209 standards are expected during nighttime hours.

210 (Ord. No. 96-15, § I(50-498), 3-4-1996; Ord. No. 16-01, § 2, 6-4-2001; Ord. No. 25-2025, § 2(Exh. A), 6-16-25)

211 **Sec. 38-74. Loudspeakers and public address systems.**

212 Loudspeakers or public address systems used to produce sound signals from any source for either advertising
213 or other purposes may not be operated on or over public property and public rights-of-way unless a license has
214 been issued by the officer. A fee established by resolution of the city commission in the appendix A fee schedule
215 shall be paid for such license. The permit may be canceled for noncompliance with this article. Such systems may
216 be used Monday through Saturday during daylight hours only.

217 (Ord. No. 96-15, § I(50-499), 3-4-1996)

218 ADDENDUM A. ENFORCEMENT STANDARDS

219 I. General.

220 1.1. *Purpose.* These enforcement standards establish uniform guidelines for measuring and recording noise
221 levels for the enforcement of the noise control ordinance of the city.

222 1.2. *Standards.* These enforcement standards should be used in conjunction with the following standards and
223 recommended practices:

224 (1) Acoustical Terminology, American National Standards Institute Incorporated (ANSI) S1.1-1960.

225 (2) Specification for General-Purpose Sound Level Meters, ANSI S1.4-1971.

226 (3) Preferred Frequencies and Band Numbers for Acoustical Measurements, ANSI S1.1967.

227 (4) Method for Calibration of Microphones, ANSI S1.10-1966.

228 (5) Specification for Octave, Half-Octave and Third Octave Band Filter Sets, ANSI S1.11-1966.

229 (6) Specifications for Laboratory Standard Microphones, ANSI S1.12-1967.

230 (7) Preferred Reference Quantities for Acoustical Levels, ANSI S1.8-1969.

231 (8) Recommended Practice Qualifying a Sound Data Acquisition System, Society of Automotive Engineers,
232 Incorporated, J184.

233 (9) Standard Method for the Measurement of Sound Pressure Levels, ANSI S1.13-1971.

234 1.3. *Definitions.* Unless otherwise defined here in this Code or within the noise control ordinance, all
235 terminology shall be in conformance with applicable publication of the American National Standards Institute,
236 Incorporated (ANSI) or its successor body.

237 II. Instrumentation.

238 2.1. *Requirements.* Instrumentation used in making sound level measurements shall meet the following
239 requirements:

240 (1) *Sound level meter.* Sound level meters shall be of at least type 2 meeting ANSI S1.4-1971 requirements.
241 Alternately, a microphone or sound level meter may be used with a magnetic tape recorder and/or
242 graphic level recorder or indicating meter, providing the system meets at least type 2 ANSI
243 requirements. For measurements requiring octave band analysis, the equipment will additionally meet
244 ANSI S1.11-1966.

245 (2) *Sound level calibrator.* The entire sound measurement system shall be calibrated with an acoustic
246 calibrator recommended by the manufacturer and according to the manufacturer's recommended
247 procedures.

248 (3) *Windscreen.* An open-cell, foam windscreen recommended by the manufacturer of the sound level
249 meter shall be used.

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250 2.2. *Calibration.* The instruments used for acoustical measurements shall be serviced in accordance with the
251 manufacturer's instructions. Before and after a series of measurements, the instrumentation shall be calibrated
252 acoustically according to the manufacturer's instructions and at intervals not exceeding two hours when the
253 instrument is used longer than a two-hour period.

254 2.3. *Meter operation.* Unless expressed otherwise in this Code, the sound level meter shall be operated in
255 accordance with the instrument manufacturer's instruction and as follows:

256 (1) *Microphone location.* The microphone shall be located at a height of four feet above the ground level.
257 All microphone positions shall be described in the recording of all data.

258 (2) *Microphone orientation.* The microphone shall be oriented in relation to the source of the sound in
259 accordance with the instrument manufacturer's instructions. Where the instruction manual is vague or
260 does not include adequate information, a specific recommendation shall be obtained from the
261 manufacturer.

262 (3) *Meter setting.* The meter shall be set for the A-weighted network and fast response.

263 (4) *Ambient sound.* Measurements shall be made only when the A-weighted ambient sound level,
264 including wind effects and all sources other than that being measured, is at least ten decibels lower
265 than the sound level of the source. (Methodologies are available for determining source levels when
266 the source-ambient difference is less than ten decibels. These methodologies should be covered in a
267 training course.)

268 III. Personnel.

269 3.1. *Personnel.* Persons selected to conduct sound measurement tests shall have received training in the
270 techniques of sound measurement and the operation of sound measurement instruments.

271 3.2. *Technician location.* The technician making direct readings of the meter shall be positioned in relation to
272 the microphone in accordance with the instrument manufacturer's instructions. Where the instruction manual is
273 vague or does not include adequate information, a specific recommendation shall be obtained from the
274 manufacturer.

275 3.3. *Bystander location.* During sound measurements, bystanders shall not be within ten feet of the
276 microphone or noise source, except for a witness or trainee, who may be positioned behind the technician on a
277 line with the technician and the microphone.

278 IV. Measurement procedures.

279 4.1. *Measurement procedures.* The following procedure shall be used to determine if a violation exists
280 pursuant to section 38-71:

281 (1) *Sound level meter location.*

282 a. The sound level meter shall be located on the adjacent boundary closest to the noise source or
283 on a lot from which the complaint arises, unless otherwise specified in the noise control
284 ordinance.

285 b. If a complaint arises from a multistory structure, the height of the sound level meter shall be
286 adjusted so that it is on a direct line between the noise source and noise receiver.

287 c. The microphone shall be at least three feet from any adjacent structures.

288 (2) *Sound level exceeded ten percent of the time.*

289 a. Every ten seconds read the level from the sound level meter.

290 b. Record this level on the data sheet (figure 1) as a check mark at the appropriate level.

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- 291 c. After 60 samples, test by the confidence criterion discussed below. If the samples meet the
292 criterion, then the measurement is complete. If not, then 40 more samples must be taken and
293 the confidence test repeated. If the confidence criterion is still not met, additional groups of 50
294 samples must be completed until the confidence criterion is met.
- 295 d. The confidence criterion is as follows:
- 296 1. Counting down from the top of the data sheet (and from left to right within each level),
297 circle the "test samples" shown in table 1. For instance, after 60 samples have been taken,
298 then the second, the sixth, and the 12th samples from the top are circled. (See figure 1,
299 example 1.)
- 300 2. If these three test samples fall into three contiguous levels, the measurement is complete.
301 Otherwise, another group of samples must be taken and tested again. (Sometimes the test
302 samples will be even more closely packed, falling into only one or two contiguous levels. In
303 these cases, the criterion is also met.)
- 304 3. If 100 or more samples have been taken, skewing is allowed. The two outer test samples
305 (the error limits) can be shifted by one sample (not one level) both in the same direction.
306 (See figure 1, example 2.) This sometimes provides the necessary accuracy without
307 requiring further sampling. However, if the criterion is still not met after skewing, then 50
308 more samples must be taken and tested.
- 309 e. Once the confidence criterion has been met, the level exceeded ten percent of the measurement
310 period (the second sample circled), has been determined with dB with 95 percent confidence.

311 (3) *Maximum sound level.*

- 312 a. As noise source radiates sound, read the maximum deflection of the needle of the sound level
313 meter.
- 314 b. If possible, determine and record the minimum sound level during the period of observation.

315 V. Reporting measurements.

316 5.1. *Information.* The following information shall be obtained and reported for each sound measurement
317 period:

- 318 (1) Dimensioned sketch or photograph of the test area showing location of sound sources and receivers.
319 (2) Note any possible reflecting objects within the test area.
320 (3) Physical and topographical description of the ground surface.
321 (4) Meteorological conditions, including temperature, relative humidity, wind direction and speed.
322 (5) Equipment and settings used for sound measurement.
323 (6) Date, time and length of measurement period.
324 (7) Measured sound levels.
325 (8) Background sound level.

326 (Ord. No. 96-15, § I(add. A), 3-4-1996)

327 Editor's note(s)—The data sheets, figures and examples referred to in these standards are not printed in this
328 article.

329 **Secs. 38-75—38-105. Reserved.**

330 **ARTICLE IV. UNSIGHTLY, UNSANITARY OR UNSAFE CONDITIONS⁴**

331 **Sec. 38-106. Definitions.**

332 The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them
333 in this section, except where the context clearly indicates a different meaning:

334 *Abandoned property* includes, but is not limited to, wrecked or derelict property which has been left behind
335 when it appears that the former owner does not intend to come back, pick it up, or use it. Examples may include,
336 but are not limited to, possessions left in a house, possessions left outside a structure, vehicles, vessels, etc., left
337 behind or beside a road for a period not to exceed ten days.

338 *Abandoned vehicle* means, but is not limited to, any wrecked or derelict property which has been left
339 abandoned and unprotected from the elements and shall include, but is not limited to, a vehicle in a state of
340 disuse, neglect, a vehicle without a license plate, a vehicle with a license plate that is not registered to that vehicle,
341 a vehicle that does not have a registration sticker affixed to the license plate, a vehicle that has a registration
342 sticker affixed to the license plate which has expired. Evidence of disuse, neglect or abandonment may include, but
343 is not limited to, factors such as: Refuse or debris collected underneath or the vehicle being used solely for storage
344 purposes; if it is partially dismantled, having no engine, transmission or other major and visible parts; having major
345 and visible parts which are dismantled; incapable of functioning as a motor vehicle in its present state; having
346 nominal salvage value; or being in any physical state rendering it inoperable. A vehicle will be considered
347 abandoned or derelict if it is in an evident state of extended disuse or neglect and which has been left abandoned.

348 *Abate* means to repair, replace, remove, destroy or otherwise remedy the condition in question by such
349 means and in such manner and to such an extent as necessary in the interest of the general health, safety and
350 welfare of the community as determined by the city manager, or his/her designee.

351 *Actual cost* means the actual contract amount plus interest, if any, as invoiced by an independent, private
352 contractor for terminating and abating a violation of this section on a lot, tract, or parcel, plus the cost of serving
353 notice of the remedy, obtaining title information on the property, administrative costs of \$250.00, and all other
354 identifiable costs incurred by the city of the abatement of the public nuisance on the lot, tract, or parcel.

355 *Attractive nuisance* means, but is not limited to, leaving a piece of equipment or other condition on the
356 property which would be attractive and dangerous to the safety of curious children. This would include, but is not
357 limited to, unguarded swimming pools, open pits, abandoned personal and real property, refrigerators, and
358 buildings which have been boarded up for longer than 30 days.

359 *Adjacent lot and lot adjacent* mean the lot immediately adjoining or contiguous to the lot that is subject to
360 review under this article.

361 *Building* means any structure as defined within the Florida Building Code, section 202 adopted in section 18-
362 36. The word "building" includes the word "structure."

363 *City* means the incorporated municipality of Deltona, with definite boundaries and legal powers as set forth
364 in the City Charter, including any subsequent annexation.

Commented [PM7]: Provide for a definition for "Unsightly"

A clear definition will avoid ambiguity and ensure a consistent interpretation and support enforcement / legal decisions

⁴Editor's note(s)—Ord. No. 04-99, § 1, adopted March 15, 1999, retitled Art. IV to read as herein set out. See the Code Comparative Table.

365 *Developed lot* means any lot that has a building or mobile home on it and is in an area zoned for residential,
366 mobile home, commercial, industrial or public use, including the swale area.

367 *Enforcement official* means the enforcement services director or his/her designee.

368 *Excessive growth of grass, weeds, or brush and other overgrowth* means grass or weeds or brush, or bushes,
369 or shrubs, or trees, or vines, or flowering plants and other living plant life that is allowed to grow in a wild and
370 unkempt manner not in keeping with the neighborhood.

371 *Hazard tree* means, but is not limited to, a tree that is dead, diseased or dying, or has a structural defect that
372 predisposes it to failure and the tree is located near an area where personal injury or property damage could occur
373 if a tree or portions of the tree fails. This target area includes, but is not limited to, sidewalks, walkways, roads,
374 vehicles, structures, or a place where people gather (for example, a backyard).

375 *Imminent public health threat* means the condition of a lot, tract, or parcel of land that, because of the
376 accumulation of trash, junk, or debris, which includes but is not limited to, broken glass, rusted metal, automotive
377 and appliance parts, abandoned or inoperable vehicles, some of which may contain chemicals, such as Freon, oils,
378 fluids or the like, capable of causing injury or disease to humans or animals or a contaminate to the environment;
379 or the condition of a lot, tract or parcel that, because of excessive growth of grass, weeds or brush, hazard tree(s),
380 or stagnant water, can harbor criminal activity, create a habitat for rodents, vermin, reptiles or other wild animals,
381 become a breeding ground for mosquitoes, or become a place to conduct illegal activity, a place that threatens or
382 endangers the public health, safety or welfare of the city residents; a place that is reasonably believed to cause
383 currently or potentially to cause in the future, ailments or disease.

384 *Levy* means the imposition of a non-ad valorem assessment against property found to be in violation of this
385 section.

386 *Natural state* means a vacant lot that has never been cleared or has not been maintained for a period of
387 three years or more.

388 *Non-ad valorem assessment roll* means the roll prepared by the city and certified to the Volusia County
389 Property Appraiser and Tax Collector, as appropriate under Florida law, for collection.

390 *Nuisance* means (i) the excessive growth of grass, weeds, brush, branches, and other overgrowth; (ii) the
391 creation of a habitat for rodents, vermin, reptiles, or other wild animals; or (iii) creating a breeding ground for
392 mosquitoes; (iv) creating a place conducive to illegal activity; (v) maintaining a place that threatens or endangers
393 the public health, safety or welfare of city residents; (vi) develop a place that is reasonably believed to cause
394 currently, or potentially to cause in the future, ailments or disease; or (vii) a condition on the property that
395 adversely affects and impairs the economic value or enjoyment of surrounding or nearby properties; (viii) failure to
396 replace or repair with similar or improved material in a reasonable period, not to exceed 30 days, broken or
397 missing building components, including but not limited to, doors, windows, roofing materials, siding, and
398 drives/walkways outside the right-of-way which detract from the aesthetics of the neighborhood, shopping area,
399 industrial area or other commercial area within the service district; (ix) failure to repair, replace or remove broken
400 fencing, screening or decorative elements on a developed parcel or lot, is declared to be a nuisance and menace to
401 the public health, safety, and welfare of the citizens of the city, including, but not limited to, abandoned property,
402 abandoned vehicle(s), inoperable vehicles, or any other attractive nuisance.

403 *Owner* means the owner of record of a lot as such appears in the official records of the clerk of the circuit
404 court in and for the county.

405 *Trash, junk, or debris* means waste materials including, but not limited to, putrescible and non-putrescible
406 waste, combustible and non-combustible waste, and generally all waste materials including, but not limited to,
407 paper, cardboard, tin cans, lumber, concrete rubble, glass, bedding, crockery, household furnishings, household
408 appliances, inoperable vehicle(s), dismantled pieces of motor vehicles or other machinery, abandoned vehicles,
409 tires, rusted metal articles, and abandoned property of any kind.

410 *Rubble and debris* mean waste materials resulting from the construction or demolition of structures or
411 buildings not usable as a part of or for the construction or demolition of structures or buildings.

412 *Swale area* means that portion of land between the traveled roadway and the sidewalk or property line.

413 *Yard trash* means abandoned vegetative material from landscaping, maintenance or land clearing
414 operations, and includes such materials as tree and shrub trimmings, grass clippings, palm fronds, tree limbs, tree
415 stumps and similar materials.

416 (Ord. No. 03-97, § 1(2), 3-3-1997; Ord. No. 04-99, § 2, 3-15-1999; Ord. No. 15-02, § 1, 8-5-2002; Ord. No. 30-2006,
417 § 1, 11-6-2006; Ord. No. 02-2018, § 2, 2-27-2018)

418 Cross reference(s)—Definitions generally, § 1-2.

419 **Sec. 38-107. Penalty for violation of article.**

420 If the enforcement official shall find that any of the provisions of this article are being violated, he shall notify
421 the property owner of such violations, in writing, indicating the nature of the violation and ordering any action
422 necessary to correct it. The enforcement official shall, at the same time, post a notice of violation on the affected
423 property.

424 (Ord. No. 03-97, § 1(3), 3-3-1997; Ord. No. 30-2006, § 2, 11-6-2006)

425 **Sec. 38-108. Civil remedies.**

426 The city commission may institute in any court, or before any administrative board of competent jurisdiction,
427 action to prevent, restrain, correct or abate any violation of this article or of any order or regulations made in
428 connection with its administration or enforcement; and the court or administrative board shall adjudge to the
429 plaintiff such relief by way of injunction or any other remedy allowed by law or otherwise, to include mandatory
430 injunction, as may be proper under all the facts and circumstances of the case, in order to fully effectuate the
431 regulations adopted and orders and rulings made pursuant to the regulations.

432 (Ord. No. 03-97, § 1(4), 3-3-1997)

433 **Sec. 38-109. Exempt areas.**

434 Notwithstanding any other provision of this article to the contrary, this article shall not apply to any property
435 within the city which is used for agricultural purposes pursuant to the zoning regulations or on any lot, or portion
436 of a lot, in an undisturbed natural state or condition; however, this exemption shall not apply to lots in a natural
437 state that contain rubbish, waste, rubble, debris, yard trash or nuisance trees.

438 (Ord. No. 03-97, § 1(6), 3-3-1997; Ord. No. 30-2006, § 3, 11-6-2006)

439 **Sec. 38-110. Declaration of nuisance.**

440 (a) The City of Deltona prohibits the existence of any nuisance as defined herein for the following reasons: The
441 property is dangerous, unhygienic, unhealthy, visually unpleasant to the reasonable person of average
442 sensibilities, and a visual nuisance because it depreciates, or potentially can depreciate, the value of
443 neighboring property.

444 (1) It shall be the duty of the owner of property to eliminate on their lot, tract or parcel of land any public
445 nuisance known at common law or in equity jurisprudence or as provided by the Statutes of the State

446 of Florida or the City Code of Ordinances including, but not limited to, excessive growth of grass,
447 weeds, brush, hazard trees, and other overgrowth on the property and that portions of the adjoining
448 public right-of-way between the property and paved or graded street; conditions which endanger
449 human life or substantially and detrimentally affect the utility, livability, safety or security of occupants,
450 nearby occupants or passersby; conditions which render air, food or drink unwholesome or
451 detrimental to the health of human beings; fire hazards; structurally unsound fences or structures;
452 abandoned buildings when they are unsecured or un-securable and when by reason of abandonment
453 or neglect they contain hazards or other unsafe conditions; and any attractive nuisance which may
454 prove detrimental to the health and safety of children or others whether in a building, on the premises
455 of a building or upon an unimproved lot.

456 (2) Properties subject to this section shall be kept free of weeds, overgrown brush, dead vegetation, trash,
457 junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those
458 required by federal, state or local law, abandoned personal items included, but not limited to,
459 furniture, clothing, large and small appliances, printed material or any other items that give the
460 appearance that the property is abandoned.

461 The property shall be maintained free of graffiti or similar markings by removal or painting over with
462 paint that matches the color of the exterior structure. Imminent public health threat exists when the
463 city manager or his/her designee determines that conditions on a property constitute an imminent
464 public health threat and the situation calls for abatement sooner than the abatement procedures in
465 the code permit, the city manager may order and cause the summary abatement of those conditions
466 without the prior notice or hearing requirements prescribed herein. After the fact notice will be
467 provided by the city to the owner no later than ten working days after the abatement. The owner shall
468 have 30 days from the date the invoice is mailed to reimburse the city; or 15 days to appeal. If the
469 property is secured by locks or otherwise, the city shall have the authority to enter said property for
470 purposes of remedying the condition creating the nuisance or violation and any additional costs
471 incurred by the city in gaining access to the property including, but not limited to, judicial action, or in
472 re-securing the property after cleaning and clearing, shall be considered expenses of remedying the
473 condition.

474 (b) It is declared and determined by the city commission that the following shall each individually or in any
475 combination be considered a nuisance when they exist upon any right-of-way, lot, tract or parcel of land or
476 adjacent lots in the incorporated area of the city:

477 (1) Excessive and untended growth of grass, weeds, brush, branches, and other overgrowth, where the
478 greater portion of the weeds on the lot exceeds 12 inches in height, which impair the economic welfare
479 of the property, contribute to a fire hazard and/or create a health hazard when any part of those
480 growths are located on any lot adjacent to the boundary of any developed lot.

481 (2) Accumulations of waste, yard trash, or rubble and debris.

482 (3) Accumulations of waste, yard trash, or rubble and debris, living and non-living plant material, hazard
483 trees and stagnant water that may harbor rats or snakes or that may contain pools of water that may
484 serve as breeding grounds for insects or other disease transmitters.

485 (4) Nuisance trees determined to be a public hazard when it has been determined by the enforcement
486 official and the city engineer in consideration of the following standards:

487 a. Sand Pines leaning 45 degrees or more from vertical are a nuisance subject to immediate
488 removal.

489 b. Sand Pines leaning less than 45 degrees from vertical may be declared a nuisance following an
490 inspection by a professional forester, botanist or landscape architect.

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- 491 c. Sand Pines leaning less than 25 degrees from vertical are not a nuisance absent special conditions
492 making them a hazard in the opinion of a professional forester, botanist or landscape architect.
- 493 d. Any dead, damaged or diseased trees, located within 35 feet of any public roadway, public or
494 private sidewalk that is adjacent to a public roadway, or any developed public property, may be
495 declared a nuisance following an inspection by a professional forester, botanist or landscape
496 architect and are subject to immediate removal.
- 497 (5) The existence of all other objectionable, unsightly or unsanitary matter, materials, and conditions on
498 improved property.
- 499 (6) Property providing a breeding place for mosquitos.
- 500 (7) Property being inhabited by, or providing a habitat for rodents, vermin, reptiles, or other wild animals.
- 501 (8) Property being a place, or being reasonably conducive to serving as a place, for illegal or illicit activity.
- 502 (9) Property conditions that are threatening or endangering the public health, safety, or welfare of city
503 residents.
- 504 (10) Property reasonably believed to cause currently, or potentially to cause in the future, ailments, or
505 disease.
- 506 (11) Property adversely affecting and impairing the economic value or enjoyment of surrounding or nearby
507 property, more particularly described at chapter 18 - Property Maintenance Code.
- 508 (12) Failure to replace or repair with similar or improved material in a reasonable period, not to exceed 60
509 days, broken or missing building components, including but not limited to, doors, windows, roofing
510 material, siding, and drives/walks outside the right-of-way which detract from the aesthetics of the
511 neighborhood, shopping area, industrial area or other commercial area within the service district. See
512 chapter 18 - Property Maintenance Code.
- 513 (13) Failure to repair, replace, or remove broken fencing, screening or decorative elements on a developed
514 parcel or lot.
- 515 (14) See section 18-112 where the city, in its entirety is declared a special-assessment district for the
516 purposes of abating and remedying unfit and unsafe structures and a non-ad valorem assessment may
517 be levied under this section.
- 518 (Ord. No. 03-97, § 1(7), 3-3-1997; Ord. No. 04-99, § 3, 3-15-1999; Ord. No. 30-2006, § 4, 11-6-2006; Ord. No. 28-
519 2007, § 1, 10-1-2007; Ord. No. 02-2018, § 2, 2-27-2018)

520 **Sec. 38-111. Nuisance abatement requirements.**

521 It is determined by the city commission that any nuisance declared by this article that is found upon any lot,
522 lots or adjacent lots, as the case may be, in the incorporated area of the city, shall be abated in the following
523 manner:

- 524 (1) If the nuisance consists of a nuisance tree or nuisance trees, accumulations of waste, yard trash, or
525 rubble and debris, it shall be abated in its entirety.
- 526 (2) If the nuisance consists of nuisance weeds, it shall be abated in its entirety, provided that the nuisance
527 lies upon a previously cleared or improved lot adjacent to a developed lot; or
- 528 (3) If the nuisance consists in part or combination of any of the nuisances declared in section 38-110, then
529 the provisions of section 38-111 shall apply.

530 (Ord. No. 03-97, § 1(8), 3-3-1997; Ord. No. 04-99, § 4, 3-15-99)

531 **Sec. 38-112. Nuisance prohibited.**

532 It is unlawful for any person owning property in the city to allow his lot to exist in nuisance condition as
533 described in this article.

534 (Ord. No. 03-97, § 1(9), 3-3-1997)

535 **Sec. 38-113. Public rights-of-way.**

536 (a) It shall be the responsibility of every owner, agent or tenant of improved property in the city to, at all times,
537 maintain those rights-of-ways most nearly abutting their property. These responsibilities shall include
538 removing litter and debris, and cutting the grass and weeds to maintain a neat and trimmed appearance.

539 (b) It is declared that the placement of plantings, except grass, and the placement of structures in the publicly
540 owned right-of-way is prohibited and is declared to be a nuisance and a violation. The city manager or his
541 designee or the enforcement official is authorized to remove (abate) plantings or structures placed in the
542 public right-of-way without prior permission.

543 (c) For the purpose of this section, right-of-way shall be defined as that area from the property line to the edge
544 of the pavement of a roadway, including any grassy or unpaved areas.

545 (d) Waste deemed to be a public health or safety hazard placed in the city right-of-way shall be declared to be a
546 nuisance and the city is authorized to remove the nuisance, after posting the property with notice requiring
547 the property owner to abate the violation within 24 hours of the posting of the notice. The property owner
548 shall be responsible for any costs incurred by the city for abatement of the nuisance and a lien shall be
549 imposed on the property.

550 (e) The city manager or their designee shall be authorized to declare waste deemed to be a public health or
551 safety hazard to be a nuisance on public rights-of-way.

552 (f) Notice required under this section shall:

553 (1) Be hand-delivered to a person in possession of the property or be posted in a conspicuous place on the
554 front door and/or on the garage door of the structure, if one exists;

555 (2) Be posted on a stake on undeveloped properties, not less than five feet from the nuisance to be abated
556 and visible from the street;

557 (3) Include the property address, violation, and corrective measure to be taken;

558 (4) Be signed by the enforcement officer and include the date and time of the posting.

559 (g) Fees and costs to abate such nuisance shall be declared to be a debt to the city and a lien shall be authorized
560 upon such real property where such abated nuisance existed. Such amount shall be recoverable in any court
561 of competent jurisdiction and shall constitute a lien against the premises to the same extent and character as
562 the lien for property taxes and special assessments and with the same penalties and with the same rights of
563 collection, foreclosure, sale, and forfeiture as obtained for special assessment liens and may be handled in
564 the same manner by the city.

565 (h) Within 30 days after the posting of the notice from the enforcement official pursuant to this section, the
566 owner of the lot may make written request for a hearing before the city's special magistrate to appeal the
567 decision of the enforcement official and to show that the condition alleged in the notice did not exist or that
568 such condition did not constitute a public health or safety hazard. Filing such appeal shall toll the recording
569 of a lien against the subject property until the decision of the special magistrate is rendered. Failure to notify
570 or to timely appear for the hearing shall be deemed a waiver of the lot owner's right to appeal. The

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571 enforcement official shall give the owner seeking such hearing written notice of the date and location of the
572 scheduled hearing. At the hearing before the special magistrate, the city and the lot owner may introduce
573 such competent, substantial evidence as is deemed relevant and necessary. Thereafter, the special
574 magistrate shall render a decision on the hearing. In order to defray the expense of processing an appeal to
575 the special magistrate the fee for appeal shall be established by resolution of the city commission in the
576 Appendix A fee schedule; however, the city shall refund the appeal fee to the applicant if the special
577 magistrate concurs with the applicant in its decision. Following review by the special magistrate, or waiver of
578 the right to appeal by the owner, the owner shall have exhausted his administrative remedies.

579 (Ord. No. 16-97, § 1, 9-8-1997; Ord. No. 34-2008, § 1, 9-15-2005; Ord. No. 28-2007, § 2, 10-1-2007; Ord. No. 34-
580 2008, § 1, 9-3-2008)

581 **Sec. 38-114. Outdoor storage.**

582 Storage of building materials, commercial and industrial equipment, materials, objects or waste relating to
583 commercial or industrial uses, or any equipment, materials or objects that are not incidental to a residential use,
584 shall be prohibited. Furniture outside must be designed to be placed outdoors or stored inside a covered structure.
585 In addition, storage of materials relating to residential use, children's play toys, firewood, brush, logs or any other
586 material intended to be used in fireplaces or other permitted burning facilities, shall be permitted only in the rear
587 yard next to the rear wall of the home.

588 (Ord. No. 28-2007, § 3, 10-1-2007)

589 **Sec. 38-115. Enforcement official.**

590 The enforcement official is hereby designated as the investigating and enforcing authority pursuant to the
591 provisions of this article. The enforcement official is directed and empowered to inspect land on which a nuisance
592 is suspected to exist, to receive all complaints of a violation of this article, and to enter upon any real property in
593 the conduct of official business pursuant to this article. The enforcement official shall be responsible for providing
594 fall notices to affected property owners required by this article and to take such other action as is reasonably
595 necessary to accomplish the purpose of this article.

596 (Ord. No. 03-97, § 1(10), 3-3-1997)

597 **Sec. 38-116. Notice to correct violation.**

598 The enforcement official is empowered to enter upon and inspect any lot on which a nuisance declared by
599 this article is suspected to exist. If inspection reveals the presence of a nuisance, the enforcement official shall
600 notify the record owners by registered or certified mail, return receipt requested, of such nuisance, or by hand
601 delivery by the enforcement official or deputy sheriff. The notice shall be sent to the last available address of the
602 owners of record as found in the county public records. At the same time, a notice of violation shall be posted on
603 the property, which shall advise the owner that a nuisance exists on the owner's lot; and the nuisance shall be
604 abated by the owner. The notice shall specify what corrective action shall be taken by the owner to abate the
605 nuisance and that failure to abate the nuisance will result in the enforcement official abating the nuisance and that
606 a lien for the costs of the abatement shall be recorded against the property for failure to abate the nuisance. The
607 owner shall have seven days from the mailing or hand delivery of the notice and posting on the property to correct
608 the nuisance except that an owner of a lot that is unimproved, undeveloped or in its natural state shall have 15
609 days to correct the nuisance. Such notice shall also state that if a similar condition constituting a nuisance occurs
610 on the same lot within the following 12 months, the city shall have the right, but not the obligation, to abate that
611 nuisance with only a 24 hour posting as notice and no mailed notice, and record a lien for the costs of that

Commented [PM8]: Include strengthening language to ensure this section aligns with State Statute 162 and established Deltona Ordinance Ch. 2

Aligning the text with these regulations will help ensure enforcement actions are legally supported, consistent, and clearly defined.

612 abatement which can occur no earlier than 24 hours after such posting. The notice shall also state that the owner
613 has the right to appeal the determination of the enforcement official to the city commission and that the appeal,
614 upon payment of the fee in accordance with section 38-117, shall be filed within seven days of the mailing or hand
615 delivery of the notice from the enforcement official, and the posting of a notice on the property.

616 (Ord. No. 03-97, § 1(11), 3-3-1997; Ord. No. 30-2006, § 5, 11-6-2006; Ord. No. 35-2008, § 1, 10-6-2008; Ord. No.
617 16-2016, § 1, 7-5-2016)

618 **Sec. 38-117. Appeals.**

619 Within seven days after the mailing or hand delivery of the notice from the enforcement official pursuant to
620 section 38-115, and except for section 38-110, imminent public health threat, the owner of the lot may make a
621 written request for a hearing before the city commission to appeal the decision of the enforcement official and to
622 show that the condition alleged in the notice does not exist or that such condition does not constitute a nuisance.
623 Filing such appeal shall toll the seven-day period to correct the nuisance until the decision of the city commission is
624 rendered. Failure to notify or to timely appear for the hearing shall be deemed a waiver of the lot owner's right to
625 appeal. The enforcement official shall give the owner seeking such hearing written notice of the date and location
626 of the scheduled hearing. At the hearing before the city commission, the city and the lot owner may introduce
627 such competent, substantial evidence as is deemed relevant and necessary. Thereafter, the city commission shall
628 render a decision on the hearing. In order to defray the expense of processing an appeal to the city commission
629 the fee for appeal shall be established by resolution of the city commission in the appendix A fee schedule;
630 however, the city commission shall refund the appeal fee to the applicant if the city commission concurs with the
631 applicant in its decision. Following review by the city commission, or waiver of the right to appeal by the owner,
632 the owner shall have exhausted his administrative remedies.

633 (Ord. No. 03-97, § 1(12), 3-3-1997; Ord. No. 35-2008, § 2, 10-6-2008; Ord. No. 02-2018, § 2, 2-27-2018)

634 **Sec. 38-118. Abatement of nuisance by city.**

635 If no appeal is filed or the notice is returned undelivered, upon the expiration of the seven-day period after
636 the mailing or hand delivery of the notice of violation and posting of the property, the enforcement official shall
637 reinspect the lot to ascertain whether or not the nuisance has been abated. Should the enforcement official
638 determine that the subject lot still constitutes a nuisance and has notified the owner as such, and the owner has
639 failed to abate the nuisance within the allowed time, the enforcement official shall abate the nuisance no earlier
640 than seven days from the mailing or hand delivery of the notice and the posting of the property. The enforcement
641 official, through his agents or authorized contractors, is authorized to enter upon the lot and take such steps as are
642 reasonably necessary to effect abatement.

643 (Ord. No. 03-97, § 1(13), 3-3-1997; Ord. No. 35-2008, § 3, 10-6-2008)

644 **Sec. 38-119. Assessment of costs of abatement; imposition of lien.**

645 As soon after abatement is feasible, the actual cost of abatement shall be calculated. Thereupon, the city
646 shall levy a municipal lien in the amount of such cost against such lot. Such lien shall describe the lot and show the
647 total cost assessed. Until payment is complete, such lien shall constitute a lien against the land on which the
648 violation exists and upon any other real or personal property owned by the violator in Volusia County, Florida. The
649 lien shall become due and payable to the city as of the date of the mailing of the notice of lien. Interest shall begin
650 to accrue at the rate of 18 percent per annum on any unpaid portion 30 days after the mailing of the notice of lien.

651 (Ord. No. 03-97, § 1(14), 3-3-1997; Ord. No. 04-99, § 5, 3-15-1999; Ord. No. 15-02, § 2, 8-5-2002; Ord. No. 30-2006,
652 § 6, 11-6-2006; Ord. No. 10-2010, § 3, 9-20-2010)

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653 **Sec. 38-120. Notice of lien.**

654 The city shall mail a notice to the record owner of each lot by certified mail, return receipt requested, to the
655 last available address of record for such owners as found in the county public records, which notice shall include
656 the following information:

- 657 (1) The name and address of the lot owner;
- 658 (2) A legal description of the lot where the nuisance has been abated;
- 659 (3) The date of mailing of the notice of the lien;
- 660 (4) A brief description of the nuisance;
- 661 (5) The date that the notice was originally sent to abate the nuisance;
- 662 (6) A statement of actual costs of abatement and any interest due;
- 663 (7) The date of the municipal lien imposed for costs of abatement of the nuisance;
- 664 (8) Instructions regarding payment and removal of the lien; and
- 665 (9) Additional information as necessary and appropriate.

666 (Ord. No. 03-97, § 1(15), 3-3-1997; Ord. No. 04-99, § 6, 3-15-1999; Ord. No. 30-2006, § 7, 11-6-2006; Ord. No. 10-
667 2010, § 3, 9-20-2010)

668 **Sec. 38-121. Recording of lien.**

669 As soon as possible after the assessment for abatement of a nuisance has been made, a certified copy of the
670 municipal lien shall be recorded in the official records of the county in the office of the clerk of the circuit court in
671 and for the county.

672 (Ord. No. 03-97, § 1(16), 3-3-1997; Ord. No. 04-99, § 7, 3-15-1999; Ord. No. 15-02, § 3, 8-5-2002; Ord. No. 30-2006,
673 § 8, 11-6-2006; Ord. No. 10-2010, § 3, 9-20-2010)

674 **Sec. 38-122. Effect of lien.**

675 The municipal lien created under the provisions of this article shall become effective as of the date of
676 recording such copy in the official records of Volusia County by the Clerk of the Circuit Court. Such lien, together
677 with interest, may be enforced by civil action in the appropriate court of the county. The liens created under this
678 article shall be a first lien equal to a lien for nonpayment of property taxes on any property against which a lien for
679 costs to abate the nuisance has been filed, and shall continue in full force from the date of recording until
680 discharged by satisfaction.

681 (Ord. No. 03-97, § 1(17), 3-3-1997; Ord. No. 30-2006, § 9, 11-6-2006; Ord. No. 10-2010, § 3, 9-20-2010)

682 **Sec. 38-123. Satisfaction of lien.**

683 Upon satisfaction of the lien created under this article, the city shall file an order of satisfaction, release and
684 dismissal of lien with the clerk of the circuit court.

685 (Ord. No. 03-97, § 1(18), 3-3-1997; Ord. No. 10-2010, § 3, 9-20-2010)

686 **Sec. 38-124. Alternate method of enforcement.**

687 As an alternative to the procedures of this article at the option of the enforcement official, violations of this
688 article which occur on occupied properties, and repeat violations, may be referred to the special magistrate for
689 enforcement action pursuant to article II of chapter 2. In such cases, notice shall be given to the property owner by
690 registered or certified mail, return receipt requested and the property shall simultaneously be posted. The time
691 period for compliance with the notice of violation shall not exceed seven days. The special magistrate shall set a
692 minimum fine for such violations of \$250.00, plus \$10.00 per day. The \$250.00 fine shall be assessed on the day
693 following the required compliance date set by the special magistrate, or on the day following the date of the
694 mailing or hand delivery of the notice of violation for repeat offenses. The \$10.00 fine shall accumulate for each
695 day that the violation continues from the second day following the required compliance date determined by the
696 Special Magistrate or from the second day following date of the notice of violation to the date of compliance for
697 repeat violations.

698 (Ord. No. 03-97, § 1(19), 3-3-1997; Ord. No. 30-2006, § 10, 11-6-2006; Ord. No. 35-2008, § 4, 10-6-2008)

699 **Sec. 38-124A. Assessments for public nuisance.**

700 (a) *Purpose and intent.* The purpose and intent of this section is to establish a special assessment district to
701 abate and remedy violations of [article IV].

702 (1) Establishment of a special assessment district for the City of Deltona in its entirety, as its city
703 boundaries exist on the date of the enactment of this section and as they may expand or contract from
704 time to time. The special assessment district is declared for the purposes of abating and remedying
705 violation of [article IV]. Individual properties within the city's boundaries, as they may exist from time
706 to time, may be assessed for the costs incurred by the city in abating and remedying violations of
707 [article IV]. Such costs on a particular property may be cumulatively added over multiple fiscal years in
708 order to meet any yearly assessment limitation as required by the county property appraiser and/or
709 tax collector under F.S. § 197.3632, as amended.

710 (2) *Levy of non-ad valorem assessments.* There is hereby levied, and the city commission is authorized to
711 levy from time to time, a non-ad valorem assessment against each and every property in the city; (i) on
712 which there has occurred a violation of section 38-110; and (ii) on which the city undertakes or has
713 undertaken action pursuant to sections 38-113 and 38-116 to abate and/or remedy the violation and,
714 thereby incurs or has incurred costs; and (iii) the property owner of the property failed or refused, for
715 whatever reason to pay timely the amount owed to the city under section 38-119 for the costs incurred
716 by the city in carrying out such abatement and remedy.

717 (3) *Collection of non-ad valorem assessments.* The city commission elects to use the uniform method to
718 impose and collect non-ad valorem assessments against properties on which violations of section 38-
719 110 occur or have occurred. The non-ad valorem assessments collected pursuant to this section will be
720 included in the combined notice for ad-valorem taxes and for non-ad valorem assessments as provided
721 in F.S. § 197.3635. Non-ad valorem assessments collected pursuant to this section are subject to all
722 collection provisions in F.S. § 197.3632, including discount for early payment, prepayment by
723 installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax
724 certificates and tax deeds for nonpayment.

725 (4) *Agreement to reimburse the county property appraiser and the county tax collector.* In order to use the
726 uniform method for the levy, collection, and enforcement of the non-ad valorem assessments, the city
727 is authorized to enter into a written agreement with the county property appraiser and county tax
728 collector providing for the reimbursement of their costs incurred in the administration and collection of
729 the non-ad valorem assessments levied under this section.

Commented [PM9]: Update fines/fees to reflect recently adopted Ch. 1-15. and include text to strengthen connection from Chapter 38 to Chapter 1

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- 730 (5) *Adoption of a resolution.* The city will comply with all statutory notice prerequisites set forth in F.S. §
731 197.3632. The city commission will adopt a resolution at a public hearing prior to March 1, 2018 in
732 accordance with F.S. § 197.3632(3), which resolution shall state the following: (a) The city's intent to
733 use the uniform method of collecting non-ad valorem assessments; (b) The city's need for the
734 imposition of the non-ad valorem assessments; (c) The entire city is declared a special assessment
735 district, with individual properties being subject to the non-ad valorem assessments from time to time
736 if and when violations of section 38-110 occur.
- 737 (6) *Annual non-ad valorem assessment roll.* Each year, the city commission will approve a non-ad valorem
738 assessment roll at a public hearing between January 1 and September 15. The non-ad valorem
739 assessment roll will be comprised of properties that have had levied against them non-ad valorem
740 assessments under this section, and such assessments have not otherwise been paid in full prior to
741 approval on the roll: (a) The city manager, or his/her designee, is authorized and directed each year to
742 prepare the notice that must be sent by first class United States mail, as required by F.S. §
743 197.3632(4)(b); (b) The notice is to be sent by first class United States mail and will be sent to each
744 person owning property that will be on the non-ad valorem assessment roll and will include the
745 following: (i) the purpose of the assessment; (ii) the total amount to be levied against the parcel, which
746 includes the actual cost incurred by the city; (iii) a statement that failure to pay the assessment will
747 cause a tax certificate to be issued against the property, which may result in a loss of title; (iv) a
748 statement that all affected property owners have a right to appear at the hearing and to file written
749 objections with the city commission within 20 days of the notice; (v) the date, time and place of the
750 hearing.
- 751 (7) Upon its approval by the city commission, the non-ad valorem assessment roll will be certified to the
752 tax collector as required by law.
- 753 (Ord. No. 02-2018, § 2, 2-27-2018; Ord. No. 16-2018, § 2, 10-15-2018)

754 **ARTICLE V. GRAFFITI⁵**

755 **Sec. 38-125. Definitions.**

756 For the purpose of this article the following terms apply:

757 *Actual cost* means the actual contract amount, as invoiced by an independent contractor, for terminating
758 and abating a violation of the article on any building, structure or other property pursuant to an order of the
759 enforcement services director or his/her designee, plus the cost of serving notice, obtaining title information,
760 advertising and recording any liens imposed hereunder.

761 *Code compliance inspector* shall mean the chief code compliance officer of the code compliance division (or
762 successor division) of the city department of development services or any of his/her authorized inspectors.

763 *Corrective action* means an act required to remove or effectively and appropriately obscure graffiti.

764 *Enforcement services director* shall mean the enforcement services director, or his or her designee.

765 *Graffiti* means the unauthorized writing, painting, marking, moving, drawing, defacing or etching of any
766 inscription that has been placed upon any public or private property, real or personal, through the use of paint,

⁵Cross reference(s)—Administration, ch. 2.

767 ink, dye, indelible marker, or any other substance capable of marking property or through the use of any
768 implement that can be used to deface, mar or etch on property.

769 *Graffiti nuisance property* means property that has had a notice of violation issued pursuant to section 38-
770 128 of this chapter or a citation issued on it by a code compliance officer pursuant to chapter 2, article II, "Code
771 Enforcement", of this Code, and the graffiti for which the citation or notice of violation was issued has not been
772 corrected.

773 *Indelible marker* means any felt tip marker, or similar implement, which contains a fluid which is not water
774 soluble.

775 *Owner* with respect to real property means any and all persons with legal and/or equitable interest or title to
776 real property in the city as their names and addresses are shown in the Volusia County public records. With respect
777 to personal property, the term "owner" means any individual or entity having a legal and/or equitable interest in
778 such personal property.

779 *Property* means any real or personal property and that which is affixed, incidental or appurtenant to real
780 property, including but not limited to any structure, fence, wall, sign, or any separate part thereof, whether
781 permanent or not.

782 (Ord. No. 31-98, § 1, 12-7-1998; Ord. No. 15-02, § 4, 8-5-2002)

783 **Sec. 38-126. Graffiti prohibited.**

784 No person shall write, paint, mar, deface, draw, or etch any inscription figure, or mark of any type on any
785 public or private building or structure or other property owned, operated or maintained by any person, firm or
786 corporation or by a government entity or any agency or instrumentality thereof, unless the express prior written
787 permission of the owner, owner's agent, manager or operator of the property has been obtained.

788 (Ord. No. 31-98, § 1, 12-7-1998)

789 **Sec. 38-127. Possession of spray paint and markers.**

790 Possession of spray and/or indelible markers with intent to make graffiti or allow the same to be used to
791 make graffiti is prohibited. No person shall carry an aerosol spray paint can or indelible marker with the intent to
792 violate the provisions of section 38-126.

793 **Sec. 38-128. Penalties.**

794 Any person violating section 38-126 or 38-127 shall be punished by a fine of \$250.00 for the first offense;
795 \$500.00 for the second offense and \$1,000.00 for each subsequent offense or by imprisonment in the county jail
796 for a term not to exceed 60 days or by both fine and imprisonment at the discretion of the court.

797 (1) In the case of a minor, the parents or legal guardian shall, with the exceptions found in subsection (c)
798 below, be ordered to be responsible for payment of all fines. When the court imposes such
799 responsibility, the failure of the parents or legal guardian to make payment will result in the filing of a
800 lien upon the parent's or legal guardian's property and the amount of the lien shall include the fine and
801 any applicable administrative fees, legal fees or court costs.

802 (2) In addition to any punishment, the court shall order any person found in violation of section 38-126 or
803 38-127, to make restitution to the victim for damage or loss caused directly or indirectly by the
804 defendant's offense. Such restitution shall be made in a reasonable amount or manner as determined

805 by the court. Where the defendant is a minor, the parent's or legal guardian of the defendant shall be
806 ordered by the court to be jointly and severally liable with the minor to make such restitution.

807 (3) The court may reduce the fines and administrative costs imposed in subsection (1) above upon a
808 showing by the parent or guardian of an inability to pay the full fine and administrative fees or costs. If
809 the court finds it appropriate, the minor's parent or guardian, together with the minor, may participate
810 in a community work project as an alternative to monetary restitution or fines and costs imposed. In
811 addition, if, after a hearing, the court finds that the parent or guardian has made diligent and good
812 faith efforts to prevent the juvenile from engaging in the act of graffiti the parent or guardian shall be
813 absolved of liability by subsection (2) above.

814 (Ord. No. 31-98, § 1, 12-7-1998)

815 **Sec. 38-129. Enforcement; abatement of graffiti.**

816 (a) It shall be unlawful for the owner of any private real or personal property, including structures or
817 improvements, to permit graffiti to remain on any such property within the city, providing the city has given
818 the property owner, or the property owner's agent, manager, operator or representative written notice as
819 set forth in subsections (b) and (c) below.

820 (b) The city enforcement services department shall be the primary liaison with the community regarding graffiti
821 removal and requests for graffiti removal shall emanate from one of those offices. Whenever the
822 enforcement services director is notified by the enforcement services department of the existence of graffiti
823 on any property, the enforcement services director shall direct that a notice of violation be served upon the
824 owner, agent, custodian, lessee or occupant directing such owner, agent, custodian, lessee or occupant to
825 terminate and abate the violation within 15 calendar days of the date such notice is received by certified
826 mail, hand-delivered or posted. For purposes of this article, the term "notice is received" shall mean the date
827 the owner, agent, custodian, lessee or occupant initials or otherwise indicates his receipt of the notice of
828 violation. However, in the event the notice of violation is not accepted or is returned, the term "notice is
829 received" shall mean 15 calendar days after the later of the date of the notice of violation in a conspicuous
830 and easily visible location. The enforcement services director shall, within five days of the date the notice is
831 mailed, cause a sign to be placed upon the property in violation in a conspicuous and easily visible location.
832 The sign shall be at least 18 inches by 24 inches in dimension. Notice of violation shall include a sufficient
833 description by address and/or legal description to identify the property upon which the violation exists; a
834 description of the violation to be terminated and abated; and a statement that if the described violation is
835 not terminated and abated within 15 calendar days after notice as herein provided, enforcement services
836 director may order the code compliance inspector to cause the violation to be terminated and abated, and to
837 impose a lien upon the property for the actual cost of such termination and abatement. A preliminary
838 nonbonding, minimum estimate of the cost of abatement shall be provided as part of the notice of violation
839 to provide notice to the owner, agent, custodian, lessee or occupant of the minimum estimated cost of
840 abatement if the enforcement services director is required to cause the violation to be terminated and
841 abated. The estimated cost of abatement shall be based upon the then current rate as may be established by
842 the city commission.

843 (c) The notice of violation shall further state in bold and conspicuous letters that if such violation, within the 15-
844 day period prescribed by subsection (a) of this section:

845 (1) Has not been terminated and abated by the owner, agent, custodian, lessee or occupant; or

846 (2) Has not been timely appealed in accordance with section 38-129 of this chapter; then the enforcement
847 services director shall direct those actions necessary to cause the violation to be terminated and
848 abated. The actual cost of such termination and abatement shall constitute a lien on the property in
849 accordance with section 38-130 of this chapter.

850 (Ord. No. 31-98, § 1, 12-7-1998; Ord. No. 15-02, § 5, 8-5-2002)

851 **Sec. 38-130. Appeals.**

- 852 (a) Within the 15-day period prescribed by section 38-129 after notice is received, an aggrieved party may
853 appeal the enforcement services director determination that a notice of violation is warranted for the
854 property in question.
- 855 (b) An appeal by an aggrieved party:
- 856 (1) Shall be accompanied by a filing fee as determined by the city commission;
- 857 (2) Shall be addressed to the enforcement services director;
- 858 (3) Shall be either hand-delivered to the enforcement services director or postmarked within the 15-day
859 period after notice is received.
- 860 (c) Upon receipt of a timely appeal, the enforcement services director shall schedule a hearing date before the
861 code enforcement board. The hearing shall be scheduled on the agenda for the next available code
862 enforcement board meeting, but in no event longer than 45 days.
- 863 (d) At the hearing, the code enforcement board shall allow the enforcement services director and the aggrieved
864 party an opportunity to present evidence and to examine and cross-examine witnesses. After considering the
865 evidence and testimony, the code enforcement board shall make a factual determination as to whether the
866 property is graffiti nuisance property in violation of this article. If the code enforcement board makes a
867 factual determination that the property is graffiti nuisance property in violation of this article, it shall affirm
868 the enforcement services director issuance of the notice of violation and issue an order stating that the
869 graffiti is to be removed immediately by the aggrieved party. If the graffiti has not been removed by the
870 aggrieved party within five calendar days after the date of the code enforcement board's written order
871 holding that this article has been violated, then the services director may have the graffiti removed. If the
872 code enforcement board makes a factual determination that the property is not in violation of this article,
873 then the filing fee as set forth in subsection (b)(1) above shall be returned to the aggrieved party.
- 874 (e) Any appeal of the code enforcement board's decision shall be made to the circuit court in and for Volusia
875 County.

876 (Ord. No. 31-98, § 1, 12-7-1998; Ord. No. 15-02, § 6, 8-5-2002)

877 **Sec. 38-131. Liens.**

- 878 (a) The actual cost of a termination and abatement of a violation of this chapter when such termination and
879 abatement is accomplished under the direction of the enforcement services director shall be levied and
880 constitute a special assessment lien against the benefited property as set forth in subsection (b).
- 881 (b) The enforcement services director shall prepare a lien against the benefited property. The lien shall state
882 that if it is not paid within 15 calendar days, then the lien, or certified copy thereof, shall be recorded in the
883 official records of the county and shall constitute a special assessment lien against the property. The lien
884 shall at maximum state the name and address of the last known owner as shown on the county tax record, a
885 description of the property, the amount of the assessment, and the date of service to the property. A copy of
886 such notice shall be mailed to the owner at his last known address. No assessment shall be levied against any
887 property for graffiti removal on such property more than three times in any calendar year.

888 (Ord. No. 31-98, § 1, 12-7-1998; Ord. No. 15-02, § 7, 8-5-2002)

889 **Sec. 38-132. Additional remedies for abatement.**

- 890 (a) *Abatement remedies.* The abatement remedies afforded by this article are not exclusive and are
891 supplemental to other remedies available for enforcing codes and ordinances, including the code
892 enforcement board procedure and the code enforcement citation program set forth in chapter 2 of this
893 Code. However, only liens collectable under section 38-131 of this chapter shall be special assessment liens.
- 894 (b) *Code enforcement citation procedure.* Whenever a code compliance officer personally observes the existence
895 of graffiti on any property such code compliance officer may issue a citation to the property owner in the
896 manner provided by and consistent with the procedures set forth in chapter 2 of this Code. Failure to abate
897 graffiti nuisance property shall be subject to a fine with a civil penalty of \$200.00.
- 898 (c) *Mitigation of fines.* In the event a remedy other than this article is chosen to abate graffiti nuisance property,
899 it shall be an affirmative defense preventing any fine from issuing if the owner proves at a hearing that, at
900 the subject location, he or she has been victimized by graffiti three or more times within the calendar year of
901 the violation and had removed or effectively obscured the graffiti within 15 days of its appearance. This
902 mitigation provision applies only to fines and shall not prevent the city from taking corrective action.
- 903 (Ord. No. 31-98, § 1, 12-7-1998)

904 **Secs. 38-133—38-139. Reserved.**

905 **ARTICLE VI. FUNERALS AND MEMORIAL SERVICES**

906 **Sec. 38-140. Interference and picketing of funerals, burials, memorial services and funeral**
907 **processions prohibited.**

- 908 (a) *Scope.* This subsection does not apply to a person who conducts a viewing, visitation, funeral, burial,
909 memorial service, or funeral procession.
- 910 (b) *Interference.* A person may not knowingly obstruct, hinder, impede, or block another person's entry to or exit
911 from a viewing, visitation, funeral, burial, memorial service, or funeral procession.
- 912 (c) *Prohibited speech.* A person may not address speech to a person attending a viewing, visitation, funeral,
913 burial, memorial service, or funeral procession that is likely to incite or produce an imminent breach of the
914 peace.
- 915 (d) *Prohibited picketing.* A person may not engage in picketing activity within 1,000 feet of a viewing, visitation,
916 funeral, burial, memorial service, or funeral procession that is targeted at one or more persons attending the
917 viewing, visitation, funeral, burial, memorial service, or funeral procession or the deceased.
- 918 (Ord. No. 11-2011, § 1, 6-6-2011)

919 **Secs. 38-141—38-149. Reserved.**

920 **ARTICLE VII. STORMWATER DISCHARGE POLLUTANT CONTROL**

921 **Sec. 38-150. Definitions.**

922 For the purposes of this regulation, the following definitions shall apply; words used in the singular shall
923 include plural, and the plural, singular; words used in the present tense shall include the future tense. The word
924 "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be
925 construed to have the meaning given by common and ordinary use.

926 *Best management practices (BMPs)* are schedules of activities, prohibitions of practices, maintenance
927 procedures, treatment methods and other management practices to prevent or reduce pollutants from entering
928 the city's stormwater system or being discharged from the city stormwater system.

929 *Clean Water Act or CWA* is Public Law (PL) 92-500, as amended PL95-217, PL95-576, PL6-483, PL97-117 and
930 33 U.S.C. 1251 et seq., as amended by the Water Quality Act of 1987, PL100-4.

931 *Construction activities* means the alteration of land during construction and include such activities as
932 clearing, grading, and excavation.

933 *Discharge* means the release of liquid, solid, or gaseous material and includes, but is not limited to, a release,
934 spilling, leaking, seeping, pouring, emitting, emptying, and/or dumping of any substance of material.

935 *Illicit connection* means point source discharge to the city's stormwater system or to waters of the United
936 States, which is not composed entirely of stormwater and/or which is not authorized by a permit.

937 *Illicit discharge* is a discharge to the city's stormwater system or to waters of the United States which is not
938 composed entirely of stormwater, unless exempted pursuant to this regulation, and/or the discharge to the city's
939 stormwater system or to waters of the United States and which is not in compliance with federal, state, and local
940 permits.

941 *Municipal separate storm sewer system (MS4)* describes the city's stormwater system which is a conveyance,
942 storage area or system of conveyances and storage areas (including, but not limited to, roads with drainage
943 systems, streets, catch basins, curbs, gutters, ditches, manmade channels, storm drains, treatment ponds and
944 other structural BMPs) owned or operated by a local government that discharges to waters of the United States or
945 to other MS4s, that is designed solely for collecting, treating or conveying stormwater, and that is not part of a
946 publicly owned treatment works (POTW), as defined by 40 Code of the Federal Register 122.2, or any context may
947 require.

948 *Point source* means any discernible and confined conveyance including, but not limited to, any pipe, ditch,
949 channel, conduit, well, container, rolling stocks, concentrated animal feeding operation, vessel, or other floating
950 craft from which pollutants are discharged. This term does not include return flows from irrigated agriculture.

951 *Pollutant* includes, but is not limited to, dredged spoil, solid waste, incinerator residue, filter backwash,
952 sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except
953 those regulated under the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.), heat, wrecked or
954 damaged equipment, rock, sand and industrial, (excepting the city's discharges) and agricultural waste discharged
955 into the MS4, and not excluding other materials which the city manager or designee, federal or state regulatory
956 agencies may deem appropriate to be included.

957 *Reclaimed water* is water that has received at least advanced secondary treatment and basic disinfection and
958 is reused after flowing out of a wastewater treatment facility.

959 *Reuse* means the deliberate application of reclaimed water, in compliance with Florida Department of
960 Environmental Protection and/or St. Johns River Water Management District rules, for a beneficial purpose.

961 *Runoff* is the surface flow of water which results from, and occurs following, a rainfall event.

962 *Significant construction activities* means construction activities which result in the disturbance of five acres
963 or more of total land area.

964 *Significant redevelopment* means the alteration of an existing development which results in the increase and
965 in the discharge of a stormwater facility beyond its previously designed and constructed capacity, or increased
966 pollution or changed points of discharge, except emergency repairs.

967 *Spill* is a type of illicit discharge.

968 *Stormwater* means surface runoff and the discharge of runoff water resulting from rainfall.

969 *Waters of the United States* means surface and groundwaters as defined by 40 Code of the Federal Register
970 122.2.

971 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

972 **Sec. 38-151. Findings and declaration.**

973 (a) It is hereby found, determined, and declared as follows:

974 (1) The contribution of pollutants through discharges from stormwater systems has a significant impact on
975 receiving waters in the city.

976 (2) Improperly treated discharges from industrial or commercial activities, interconnected city stormwater
977 systems, illicit discharges and discharges from spilling, dumping or disposal of material other than
978 stormwater to the stormwater system of the city adversely affects the quality of water receiving such
979 discharges.

980 (3) The United States Environmental Protection Agency, pursuant to Title 40, Section 122.26 of the Code of
981 Federal Register, has mandated, through the issuance of a National Pollution Discharge Elimination
982 System (NPDES) permit, that the city oversee discharges to the city stormwater system, to waters of
983 the State of Florida, and to waters of the United States.

984 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

985 **Sec. 38-152. Discharges to the city stormwater system.**

986 (a) No discharge to the city's stormwater system ("MS4") shall be permitted to impair the operation of the MS4
987 or contribute to the failure of the MS4 to meet any local, state, or federal requirements, including, but not
988 limited to NPDES permits.

989 (b) Stormwater discharges to a MS4 from industrial, commercial or construction activities or from new
990 development or redevelopment projects are required to obtain appropriate local, state, and/or federal
991 permits prior to discharging to the MS4.

992 (c) Any person determined by the city to be responsible for a discharge contributing to the failure of the city's
993 MS4 shall provide corrective measures as determined necessary by the city official and/or designee, and shall
994 be liable for resulting fines and damages.

995 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

996 **Sec. 38-153. Stormwater discharges from industrial, commercial and construction activities.**

- 997 (a) Stormwater discharges from industrial and commercial activities shall be treated or managed on-site, in
998 accordance with appropriate federal, state, or local permits and regulations, prior to discharge to the city's
999 MS4.
- 1000 (b) Stormwater discharges from significant construction activities shall be treated or managed on-site in
1001 accordance with appropriate federal, state, or local permits and regulations, prior to discharge to the city's
1002 MS4. Erosion, sediment, and pollution control for the construction site shall be properly implemented,
1003 maintained, and operated according to a pollution prevention plan required by an NPDES permit for the
1004 discharge of stormwater from construction activities, or according to a state permit issued by the Federal
1005 Department of Environmental Protection or St. Johns River Water Management District.
- 1006 (c) Construction activity which is not defined as significant is still characterized as an illicit connection or illicit
1007 discharge if the activity causes an impairment of the operation of the MS4 or contributes to the failure of the
1008 MS4 to meet any local, state or federal requirements, including, but not limited to NPDES permits.
- 1009 (d) The owners or operators of industrial facilities, commercial entities, and construction sites which discharge
1010 stormwater to the city's MS4, shall provide prior written notification to the city of the discharge and shall
1011 have received prior approval of the discharge from the city.
- 1012 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1013 **Sec. 38-154. Control of pollutant contributions from interconnected stormwater systems.**

- 1014 (a) The discharge of stormwater between state, county, or other MS4s shall not be permitted to cause the city's
1015 MS4 to be in violation of the provisions of an NPDES permit. Owners of any portion of the interconnected
1016 MS4 shall be responsible for controlling the quality and quantity of discharge of stormwater to the city's
1017 MS4.
- 1018 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1019 **Sec. 38-155. Prohibition of illicit discharges and illicit connections.**

- 1020 (a) Illicit discharges and illicit connections to the city's MS4 are prohibited.
- 1021 (b) Failure to report a connection to the city's MS4 or to waters of the United States from industrial activities,
1022 commercial entities or construction activities constitutes an illicit connection.
- 1023 (c) Failure to report to the city a discharge to the city's MS4 or to waters of the United States from industrial
1024 activities, commercial entities or construction activities constitutes an illicit discharge.
- 1025 (d) Any discharge to the city's MS4 or to waters of the United States which is in violation of federal, state or local
1026 permits or regulations constitutes an illicit discharge.
- 1027 (e) Persons responsible for illicit discharges or illicit connections shall immediately cease the illicit discharge or
1028 illicit connection, obtain appropriate approvals from applicable regulatory agencies prior to resuming the
1029 discharge or connection, and shall be liable for resulting fines and damages.
- 1030 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1031 **Sec. 38-156. Inspection and monitoring for compliance.**

1032 (a) City personnel shall be granted access for inspection of facilities discharging or suspected of discharging to
1033 the city's MS4 or waters of the United States in order to effectuate the provisions of this article and to
1034 investigate violations or potential violations of any of the terms herein.

1035 (b) All structures, facilities, and activities which allow discharges to the city's MS4, as well as records concerning
1036 them, shall be made accessible to the city's personnel for this purpose.

1037 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1038 **Sec. 38-157. Operational maintenance of structures and other stormwater facilities.**

1039 (a) Structural control and other BMPs used for controlling the discharge of pollutants to the city's MS4 or to
1040 waters of the United States shall be operated and maintained so as to function in accordance with permitted
1041 design and performance criteria and in compliance with federal, state, or local permit conditions and
1042 regulations.

1043 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1044 **Sec. 38-158. Exemptions; exceptions.**

1045 (a) The following activities shall not be considered an illicit discharge or illicit connection, unless such activities
1046 cause, or significantly contribute to, the impairment of the use of the city's MS4 or the violation of the
1047 conditions of the city's NPDES permit:

1048 (1) Discharges from:

1049 a. Water line flushing;

1050 b. Flushing of reclaimed water lines;

1051 c. Street cleaning;

1052 d. Sidewalk/building power washing;

1053 e. Construction dust control;

1054 f. Landscape, lawn, and irrigation waters;

1055 g. Diverted stream flows or lake waters;

1056 h. Foundation, footing and roof drains;

1057 i. Uncontaminated groundwater infiltration (as defined at 40 Code of Federal Register 35.205(20));

1058 j. Discharges from potable water sources;

1059 k. Air conditioning condensate or cooling water;

1060 l. De-chlorinated swimming pool water;

1061 m. Springs;

1062 n. Individual residential car washing;

1063 o. Flows from riparian habitat and wetlands; and

- 1064 p. Discharges or flow from emergency fire-fighting activities and emergency response activities
1065 done in accordance with adopted spill response/action plan.
- 1066 (2) Discharges for which all appropriate federal, state, and local permits have been obtained and which are
1067 in compliance with the conditions of said permits.
- 1068 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1069 **Sec. 38-159. Discharges of polluting matter in stormwater systems prohibited.**

- 1070 (a) It shall be unlawful for any person to drain, deposit, place or otherwise discharge pollutants into any
1071 stormwater system within the city, or to cause or permit to be drained, deposited, placed or otherwise
1072 discharged into such stormwater systems any organic or inorganic matter which causes pollution, pursuant
1073 to the water quality standards established by all applicable regulatory agencies. Polluting matter includes,
1074 but is not limited to the following:
- 1075 (1) Petroleum products, including, but not limited to, oil, gasoline and grease;
- 1076 (2) Solid waste;
- 1077 (3) Paints;
- 1078 (4) Steam cleaning waste;
- 1079 (5) Pesticides, herbicides or fertilizers;
- 1080 (6) Degreasers, solvents;
- 1081 (7) Sanitary sewage;
- 1082 (8) Chemically treated cooling water;
- 1083 (9) Antifreeze and other automotive products;
- 1084 (10) Lawn clippings, leaves, branches, etc.;
- 1085 (11) Animal carcasses;
- 1086 (12) Recreational vehicle waters;
- 1087 (13) Dyes;
- 1088 (14) Construction materials;
- 1089 (15) Any liquids in quantity or quality which are capable of causing a violation of the city's NPDES
1090 stormwater permit; and
- 1091 (16) Solids in such quantities or of such size capable of causing interference or obstruction to the flow in the
1092 city's stormwater system.
- 1093 (b) It shall be unlawful to wash any public or private streets, building, sidewalks, or parking areas, unless all
1094 visible debris and sediments have been removed prior to washing.
- 1095 (c) Notwithstanding other requirements of law, as soon as any person has information of any known or
1096 suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging
1097 into private stormwater management systems, the City of Deltona's MS4, state waters, or waters of the U.S.,
1098 said person shall take all necessary steps to ensure the discovery, containment, and reporting of such a
1099 release.
- 1100 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

Commented [PM10]: Engage with Public Works to provide input and technical guidance. Their expertise will help determine appropriate infrastructure and operation consideration to these activities.

Code Enforcement utilizes this information to monitor compliance standards for washing machines and garbage truck discharge.

1101 **Sec. 38-160. Enforcement, penalties and legal proceedings.**

- 1102 (a) All persons in violation of this regulation shall remedy such violations immediately. All persons in violation
1103 shall, in addition to all other required remedial actions, upon detection and/or written notification by the
1104 city, provide a written response outlining the temporary and permanent measures that will be taken to
1105 correct the violation and a proposed schedule for completion of the corrective measures. All such proposals
1106 for corrective action are subject to the approval of the city manager or designee.
- 1107 (b) The city code enforcement official is authorized to issue cease and desist orders in the form of written official
1108 notices hand delivered or sent by registered mail to the person(s) believed to be responsible for the violation
1109 and/or the owner of the property from, or on which the violation is believed to be occurring. Specific
1110 activities and operations may be ordered to cease based upon the following conditions:
- 1111 (1) In a situation that may have a serious effect on the health, safety or welfare of the public or the
1112 environment, including the quality of stormwater in the city's MS4; or
- 1113 (2) When irreversible or irreparable harm may result, in the reasonable opinion of the city manager or
1114 designee, and immediate cessation of the activity is necessary to protect the quality of the stormwater
1115 in the city's MS4, the public or the environment.
- 1116 (c) Violations of this article are punishable as provided in the city's Part II - Code of Ordinances, Chapter 2,
1117 Article II. Nothing herein shall preclude the city from electing one or more of these remedies concurrently.
- 1118 (d) Should any person responsible for a violation of this regulation fail to take the remedial action as required by
1119 the city, the city may take such remedial action, and all costs incurred by the city shall be the responsibility of
1120 the person or persons responsible for the violation, and the city may record a lien against the personal
1121 and/or real property of the violators to recover said costs and to collect all fines and penalties imposed.
- 1122 (e) In addition to the remedies provided herein, the city may make application to a court of competent
1123 jurisdiction for injunctive relief to restrain any person from violating or continuing to violate the provisions of
1124 this regulation. In addition, the city may also seek entry of a court order requiring restoration and mitigation
1125 of any impacted facilities, land, or waters, and may request any other appropriate legal remedy, including
1126 reimbursement of court costs. The city shall be entitled to an award of attorney's fees in prosecuting such
1127 actions, together with all attorney's fees and costs on appeal.
- 1128 (f) Any fines or other funds received as a result of enforcement action under this regulation and which are not
1129 used for the specific purposes enumerated herein shall be deposited into the stormwater utility fund,
1130 established under City Code.
- 1131 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1132 **Secs. 38-161—38-169. Reserved.**

1133 **ARTICLE VIII. FLORIDA-FRIENDLY FERTILIZER USE ON URBAN LANDSCAPES**

1134 **Sec. 38-170. Definitions.**

1135 For this article, the following terms shall have the meanings set forth in this section unless the context clearly
1136 indicates otherwise.

1137 *Administrator* means an administrative official of the City of Deltona designated by the city to administer and
1138 enforce the provisions of this article.

1139 *Application or apply* means the actual physical deposit of fertilizer to turf or landscape plans.

1140 *Applicator* means any person who applies fertilizer on turf and/or landscape plants in the City of Deltona.

1141 *Approved best management practices training program* means a training program approved per F.S. §
1142 403.9338, or any more stringent requirements set forth in this article that includes the most current version of the
1143 Florida Department of Environmental Protection's "Florida-Friendly Best Management Practices for Protection of
1144 Water Resources by the Green Industries, 2008," as revised, and approved by the City of Deltona Administrator.

1145 *Board or governing board* means the Board of City Commissioners of Deltona, Florida.

1146 *Best management practices* means turf and landscape practices or combination of practices based on
1147 research, field-testing, and expert review, determined to be the most effective and practicable on-location means,
1148 including economic and technological considerations, for improving water quality, conserving water supplies and
1149 protecting natural resources.

1150 *Code enforcement officer, official, or inspector* means any designated employee or agent of the City of
1151 Deltona whose duty it is to enforce codes and ordinances enacted by the city.

1152 *Commercial fertilizer applicator*, except as provided in F.S. § 482.1562(9), means any person who applies
1153 fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer or
1154 the employer of the applicator.

1155 *Fertilize, fertilizing, or fertilization* means the act of applying fertilizer to turf, specialized turf, or landscape
1156 plants.

1157 *Fertilizer* means any substance or mixture of substances that contains one or more recognized plant
1158 nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or
1159 provides other corrective measures to the soil.

1160 *Groundcover* means plants used in mass as alternative to turf or lawn and/or to create variety in landscape;
1161 usually not having a mature height over two feet tall.

1162 *Guaranteed analysis* means the percentage of plant nutrients or measures of neutralizing capability claimed
1163 to be present in a fertilizer.

1164 *Heavy rain* as defined by the World Meteorological Organization, rainfall greater than or equal to 50mm (two
1165 inches) in a 24-hour period.

1166 *Institutional applicator* means any person, other than a private, non-commercial or a commercial applicator
1167 (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining
1168 turf and/or landscape plants. Institutional applicators shall include, but shall not be limited to, owners, managers
1169 or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any
1170 residential properties maintained in condominium and/or common ownership.

1171 *Landscape plant* means any native or exotic tree, shrub, or groundcover (excluding turf).

1172 *Low maintenance zone* means an area a minimum of ten feet wide adjacent to water courses which is
1173 planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

1174 *Person* means any natural person, business, corporation, limited liability company, partnership, limited
1175 partnership, association, club, organization, and/or any group of people acting as an organized entity.

1176 *Prohibited application period* means the time period during which a flood watch or warning, or a tropical
1177 storm watch or warning, or a hurricane watch or warning is in effect for any portion of the City of Deltona, issued
1178 by the National Weather Service, or if heavy rain is likely.

1179 *Saturated soil* means a soil in which the voids are filled with water. Saturation does not require flow. For the
1180 purposes of this article, soils shall be considered saturated if standing water is present or the pressure of a person
1181 standing on the soil causes the release of free water.

1182 *Slow release, controlled release, timed release, slowly available, or water insoluble nitrogen* means nitrogen
1183 in a form which delays its availability for plant uptake and use after application, or which extends its availability to
1184 the plant longer than a reference rapid or quick release product.

1185 *Turf, sod, or lawn* means a piece of grass-covered soil held together by the roots of the grass.

1186 *Urban landscape* means pervious areas on residential, commercial, industrial, institutional, highway rights-
1187 of-way, or other nonagricultural lands that are planted with turf or horticultural plants. For the purposes of this
1188 section, agriculture has the same meaning as in [F.S.] § 570.02.

1189 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1190 **Sec. 38-171. Findings and declaration.**

1191 As a result of impairment to the City of Deltona's surface waters caused by excessive nutrients, or, as a result
1192 of increasing levels of nitrogen in the surface and/or ground water within the aquifers or springs within the
1193 boundaries of the City of Deltona, the governing body of the City of Deltona has determined that the use of
1194 fertilizers on lands within the City of Deltona creates a risk to contributing to adverse effects on surface and/or
1195 ground water. Accordingly, the governing board of the City of Deltona finds that management measures contained
1196 in the most recent edition of the "Florida-friendly Best Management Practices for Protection of Water Resources
1197 by the Green Industries, 2008" may be required by this article.

1198 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1199 **Sec. 38-172. Applicability.**

1200 This article shall be applicable to and shall regulate any and all applicators of fertilizer and areas of
1201 application of fertilizer within the area of the City of Deltona, unless such applicator is specifically exempted by the
1202 terms of this article from the regulatory provisions of this article. This article shall be prospective only, and shall
1203 not impair any existing contracts.

1204 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1205 **Sec. 38-173. Timing of fertilizer application.**

1206 No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants
1207 during the prohibited application period, or to saturated soils.

1208 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1209 **Sec. 38-174. Fertilizer-free zones.**

1210 Fertilizer shall not be applied within ten feet of any pond, stream, watercourse, lake, canal, or wetland as
1211 defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or
1212 from the top of a seawall, unless a deflector shield, drop spreader, or liquid applicator with a visible and sharply
1213 defined edge, is used, in which case a minimum of three feet shall be maintained. If more stringent City of Deltona
1214 Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent
1215 regulations. Newly planted turf and/or landscape plants may be fertilized in this zone only for a 60-day period

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1216 beginning 30 days after planting if need to allow the plants to become well established. Caution shall be used to
1217 prevent direct deposition of nutrients into the water.

1218 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1219 **Sec. 38-175. Low maintenance zones.**

1220 A voluntary ten-foot low maintenance zone is strongly recommended, but not mandated, from any pond,
1221 stream, water course, lake, wetland or from the top of a seawall. A swale/berm system is recommended for
1222 installation at the landward edge of this low maintenance zone to capture and filter runoff. If more stringent City
1223 of Deltona Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent
1224 regulations. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in
1225 the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone

1226 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1227 **Sec. 38-176. Fertilizer content and application rate.**

- 1228 (a) Fertilizers applied to turf within the City of Deltona shall be formulated and applied in accordance with
1229 requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, *Labeling*
1230 *Requirements for Urban Turf Fertilizers*.
- 1231 (b) Fertilizer containing nitrogen or phosphorus shall not be applied before seeding or sodding a site, and shall
1232 not be applied for the first 30 days after seeding or sodding, except when hydro-seeding for temporary or
1233 permanent erosion control in an emergency situation (wildfire, etc.), or in accordance with the stormwater
1234 pollution prevention plan for that site.
- 1235 (c) Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in (a)
1236 above for turf, or in UF/IFAS recommendations for landscape plants, vegetable gardens, and fruit trees and
1237 shrubs, unless a soil or tissue deficiency has been verified by an approved test.

1238 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1239 **Sec. 38-177. Application practices/mode of application.**

- 1240 (a) Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must be
1241 positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones
1242 and water bodies, including wetlands.
- 1243 (b) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.
- 1244 (c) Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface
1245 shall be immediately and completely removed to the greatest extent practicable.
- 1246 (d) Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf
1247 or any other legal site, or returned to the original or other appropriate container.
- 1248 (e) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches,
1249 conveyances, or water bodies.

1250 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1251 **Sec. 38-178. Management of grass clippings and vegetative matter/debris.**

1252 In no case shall grass clippings, vegetative material, and/or vegetative debris be washed, swept, or blown off
1253 into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways. Any material that
1254 is accidentally so deposited shall be immediately removed to the maximum extent practicable

1255 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1256 **Sec. 38-179. Exemptions.**

1257 (a) Sections 38-174, 38-177, 38-178, 38-180 & 38-181 of this article shall not apply to golf courses; provided,
1258 however, fertilizer shall not be applied to golf courses in excess of provisions of the Florida Department of
1259 Environmental Protection ("FDEP") document, "BMPs for the Enhancement of Environmental Quality on
1260 Florida Golf Courses, January 2007."

1261 (b) This article shall not apply to any bona fide farm operation that the City of Deltona is without authority to
1262 regulate with regard to fertilizer application pursuant to the Florida Right to Farm Act, F.S. § 823.14 et seq.
1263 (2007), or other applicable state law.

1264 (c) This article shall not apply to sports turf areas at parks and athletic fields.

1265 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1266 **Sec. 38-180. Training.**

1267 (a) All commercial and institutional applicators of fertilizer within the incorporated area of the City of Deltona,
1268 shall abide by and successfully complete the six-hour training program in the "Florida-friendly Best
1269 Management Practices for Protection of Water Resources by the Green Industries" offered by the Florida
1270 Department of Environmental Protection through the University of Florida Extension "Florida-Friendly
1271 Landscapes" program, or an approved equivalent.

1272 (b) Private, non-commercial applicators are encouraged to follow the recommendations of the University of
1273 Florida IFAS "Florida Yards and Neighborhoods" program when applying fertilizers.

1274 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1275 **Sec. 38-181. Licensing of commercial applicators.**

1276 (a) Prior to 1 January 2014, all commercial applicators of fertilizer within the incorporated area of the City of
1277 Deltona, shall abide by and successfully complete training and continuing education requirements in the
1278 "Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries,"
1279 offered by the Florida Department of Environmental Protection through the University of Florida IFAS
1280 "Florida-friendly Landscapes" program, or an approved equivalent program, prior to obtaining a City of
1281 Deltona Local Business Tax Receipt for any category of occupation which may apply any fertilizer to turf
1282 and/or landscape plants. Commercial fertilizer applicators shall provide proof of completion of the program
1283 and valid license to the City of Deltona within 180 days of the effective date of this article.

1284 (b) After 31 December, 2013, all commercial applicators of fertilizer within the incorporated area of the City of
1285 Deltona, shall have and carry in their possession at all times when applying fertilizer, evidence of certification
1286 by the Florida Department of Agriculture and Consumer Services as a Commercial Fertilizer Applicator per
1287 5E-14.117(18) F.A.C.

1288 (c) All businesses applying fertilizer to turf and/or landscape plants (including but not limited to residential
1289 lawns, commercial properties, and multi-family and condominium properties) must ensure that at least one
1290 employee has a "Florida-Friendly Best Management Practices for Protection of Water Resources by the
1291 Green Industries" training certificate prior to the business owner obtaining a local business tax receipt.
1292 Owners for any category of occupation which may apply any fertilizer to turf and/or landscape plants shall
1293 provide proof of completion of the program and valid license to the City of Deltona.

1294 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1295 **Sec. 38-182. Enforcement and penalty.**

1296 Funds generated by penalties imposed under this section shall be used by the City of Deltona for the
1297 administration and enforcement of F.S. § 403.9337, and the corresponding sections of this article and to further
1298 water conservation and nonpoint pollution prevention activities.

1299 (Ord. No. 12-2013, § 1(Exh. A), 10-7-2013)

1300 **Secs. 38-183—38-189. Reserved.**

1301