

1 CODE OF ORDINANCES CITY OF DELTONA, FLORIDA

2
3 Subpart B - LAND DEVELOPMENT CODE

4 ARTICLE I. - IN GENERAL

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7 DIVISION 1. - GENERALLY.

8
9 Sec. 70-26. Reserved.

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11 Sec. 70-27. Reserved.

12
13 Sec. 70-28. Title, purpose and authority.

14
15 (a) *Short title.* This ordinance shall be known as the "Land Development Code of the City of Deltona, Florida."

16
17 (b) *Purpose.* The purpose of this chapter is to establish standards, procedures and minimum requirements for
18 review and approval of all proposed development of property under the jurisdiction of this Land Development
19 Code ("LDC"). Provided, however, it is not the purpose of this chapter to regulate any bona fide agricultural
20 production, including, but not limited to, horticulture, citrus, dairy, livestock, poultry, forestry or vegetables
21 pursuant to the "Right to Farm" Act (Chapter 823 Section 14, F.S.).

22
23 (c) *Enactment and authority.* The City Commission of the City of Deltona, Florida, pursuant to authority conferred
24 in it by article VIII, section 1(G) of the Constitution of the State of Florida; and F.S. § 125.01, F.S. Ch. 163, pt.
25 II (F.S. § 163.3161 et seq.), and F.S. § 177.01, hereby adopts the following articles and sections.

26
27 (d) *Violations and penalties.* If it is determined by the enforcement official that any person is violating any
28 provisions of this chapter, the enforcement official shall notify that person, in writing, indicating the nature of
29 the violation and ordering any action necessary to correct it. The order may include, but not be limited to, a
30 stop work order. Any violation of this ordinance may be referred to the city's code enforcement board. Any
31 person found guilty of a violation of any of the provisions of this chapter, or any lawful order of the City
32 Commission, Development Review Committee or enforcement official, shall be punished in accordance with
33 F.S. § 125.69, or any amendments thereto, with a fine not to exceed \$500.00, and/or incarceration not to
34 exceed 60 days. Notwithstanding any other provisions of this chapter, a violation of this chapter may be abated
35 by any manner as provided by law. Each day the violation continues shall be deemed a separate offense.

36
37 (e) *Injunctive relief.* In addition to any penalty provided by law for the violation of any of the provisions of this
38 chapter, the City Commission may bring suit in the appropriate circuit court to enjoin, restrain or otherwise
39 prevent the violation of any of the provisions of this chapter, in any manner as provided by law.

40
41 (f) *Fee requirements.* Reasonable fees to offset the costs of administration of this chapter shall be set by
42 resolution of the City Commission, and may be amended from time to time. All fees must be paid at the time
43 set out in said resolution.

44
45 **Sec. 70-29. Reference to the zoning ordinance; compliance required.**

46
47 Herein referenced is the City of Deltona Zoning Ordinance No. 30-98, as amended [chapter 110, Code of
48 Ordinances]. Development activity undertaken pursuant to this chapter shall comply with said zoning ordinance.
49

Chapter 74 ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 74-1. Administration.

(a) Purpose. The purpose of this section is to set out the various procedures and approval criteria of this Land Development Code. Other purposes include providing for the establishment and delegation of authority to the Development Review Committee City of Deltona Planning and Development Services Department, City Manager, City Planning and Zoning Board, and City Commission regarding land development review.

(b) Intent. In their interpretation and application, the provisions of this LDC shall be held to be minimum requirements adopted for the promotion of public health, safety, morals and general welfare, protection of natural resources, and the following:

- 1. To implement the Comprehensive Plan and all applicable ordinances;
2. To guide new growth and development of the City in an environmentally sound manner, in accordance with the policies of the Comprehensive Plan and the availability of adequate facilities and services;
3. To regulate the subdivision and development of land within the City;
4. To establish development standards and use regulations for City;
5. To protect the character and the established patterns of development by addressing compatibility and prevent or minimize conflicts among different land uses;
6. To establish predictable processes that effectively and fairly apply the requirements and standards of this LDC that respects the rights of property owners and the interests of the citizens of the City;
7. To encourage the most efficient use of land through site and context sensitive design;
8. To reduce potential hazards to the public that may result from hazardous or incompatible land uses, or from the development of environmentally sensitive lands;
9. To ensure the protection of persons and property in floodways and floodplains;
10. To protect and enhance the City's environmental, recreational, cultural, historical, natural, and scenic resources;
11. To ensure safe and efficient traffic circulation, both motorized and non-motorized vehicular and pedestrian, and the minimization of traffic impact on the surrounding area;
12. To promote a mix of housing types available for City residents; and
13. To promote the economic stability of the community, and maintain and improve the quality of life for all residents.

(c) Consistency with Comprehensive Plan. All development of land under the jurisdiction of this LDC shall be consistent with the Comprehensive Plan and applicable ordinances. Development or redevelopment of all land shall be deemed consistent with the Comprehensive Plan only if the land uses, densities or intensities, capacity or size, timing and other aspects of the development proposed for, or allowed on the property furthers the goals, objectives, policies, and principles of the Comprehensive Plan.

(d) Minimum Requirements. No development shall be approved unless the following conditions are reasonably achieved and made available pursuant to the concurrency requirements herein specified:

- (1) Adequate and efficient supply of utility services to new development.
(2) Safe and efficient traffic circulation, both motorized and non-motorized vehicular and pedestrian, and the minimization of traffic impact on the surrounding area.
(3) Protection of public health, safety and general welfare including protection from fire, flooding, and other dangers.

- 104 (4) Prevention of potential hazards to health, safety and general welfare of the residents of the
- 105 City, especially in those developments served by the individual water supply and waste
- 106 disposal systems.
- 107 (5) Adequate stormwater management so there will be no adverse impacts on the quality of
- 108 natural surface waters, on the function of the floodplains, on off-site flood stages, and on
- 109 natural system values and functions.
- 110 (6) Provision of active and passive public park and recreation areas that are readily accessible to
- 111 residents and visitors and that adequately meet identified recreation needs.
- 112 (7) Protection of the City's natural and scenic resources, including the quality of air and both
- 113 surface and ground waters and the preservation of their ecological integrity.

114

115

116 **ARTICLE II. – DEVELOPMENT REVIEW AUTHORITY.**

117

118 **Sec. 74-2. - Purpose.**

119

120 The purpose of this Section is to identify the appropriate reviewing and decision-making authority for

121 development applications that are addressed in this LDC.

122

123 **Sec. 74-3. – City Commission.**

124

125 (a) *Duties of the City Commission related to this LDC.* The City Commission shall have the following duties

126 relating to development applications that are addressed in this LDC:

127

128 (1) Appointing and confirming members of the Planning and Zoning Board required under this LDC;

129

130 (2) Appointing or confirming special magistrates as provided in City Code;

131

132 (3) Establishing a schedule of fees and charges for all processes under this LDC by resolution; and

133

134 (4) Acting as the Land Development Regulation Commission pursuant to Florida Statutes §§ 163.3164(25)

135 and 163.3194(2) by considering and approving or denying requests for the following types of

136 development applications:

137

138 a. Plan amendments, including future land use map amendments;

139 b. Annexations;

140 c. Changes to the Land Development Code or a proposed new Land Development Code;

141 d. Rezoning, including Planned Unit Developments (PUDs);

142 e. Major Conditional Uses;

143 f. Amendments to the approved Capital Improvements Program or budget;

144 g. Proposed development agreements created pursuant to the "Florida Local Government

145 Development Agreement Act";

146 h. Establishment of and amendments to Community Redevelopment Agencies (CRAs);

147 i. Final Plats; and

148 j. Vacations of Plats and Rights-of-Way.

149

150 (b) *Quorum required.* A minimum of four (4) Commissioners present at a duly called meeting shall constitute

151 a quorum. Commissioners participating virtually count towards the quorum and can vote as if they were

152 physically present in accordance with Florida Statutes.

153

154 (c) *Majority vote required.* Approvals require a majority vote of the number of Commissioners present at a duly

155 called meeting with a quorum. A "tie vote" will constitute a denial.

156

157 **Sec. 74-4. – Planning and Zoning Board.**
158

159 (a) *Planning and Zoning Board creation and composition.* The Planning and Zoning Board is the quasi-judicial
160 board that serves as the local planning agency (LPA) for the City as required by Florida Statutes. It shall
161 be referred to in this article as "PZB" The jurisdiction of the PZB shall be throughout the area of the City. It
162 shall have the following membership, powers, duties, responsibilities, and limitations.
163

- 164 1) *Membership, place of residence, terms of office.* The PZB shall have seven (7) members appointed
165 by the City Commission. Each member shall serve for a term of three (3) years. Each City
166 Commissioner and the Mayor shall appoint one (1) member to the PZB, said appointments to be
167 ratified by a majority vote of the City Commission. No PZB member shall serve on the PZB for more
168 than two (2) consecutive three-year terms. No elected official and no employee of the city government
169 shall be appointed to serve on the PZB.
170
- 171 2) *Alternate members.* The City Commission shall appoint up to five (5) alternate members. Each
172 alternate member shall serve for a term of no more than three (3) years. An active PZB member who
173 is term limited as per this Section may not serve as an alternate member until eligible to serve as an
174 active member. No attendance requirements are specified for alternate members. The alternate
175 members may not take part in discussion, make motions or vote unless they are seated, filling in for
176 a board member in their absence. Notwithstanding there being a quorum consistent with this Section,
177 each alternate will take turns filling in for an absent PZB member by rotation based on alphabetical
178 order by last name. However, the intent is there will be as many board seats filled as possible not to
179 exceed seven voting seats. If a PZB member has a conflict of interest concerning a particular case in
180 front of the board then for that particular case an alternate may replace the board member. The PZB
181 member with the conflict shall remove themselves from the dais and not speak on the matter and
182 otherwise recuse themselves unless and until they resume their position as a regular member or if
183 they are speaking as a directly affected party to an item being considered by the board.
184
- 185 3) *Removal from office, vacancies.* PZB members shall serve at the pleasure of the City Commission. If
186 any regular voting member fails to attend two (2) consecutive meetings, unexcused or three meetings
187 (excused or not) out of 12 meetings per calendar year, the PZB shall automatically declare the
188 member's office vacant. The board chairperson shall through the city clerk's office notify the City
189 Commission of any vacancies on the PZB.
190
- 191 4) *Officers.* The PZB shall elect a chairperson, vice-chairperson and a secretary from among its
192 members. The terms of all board officers shall be one year, each having eligibility for re-election. At
193 the first meeting of the Board of each calendar year, the secretary shall call the board meeting to order
194 and shall then call for nominations for the chairperson. Upon election of a chairperson, the secretary
195 shall pass the gavel to the chair. The chairperson shall then call for nominations for vice-chairperson.
196 Upon election of a vice-chairperson, the chair shall call for nominations for secretary.
197
- 198 5) *Employees, administrative services.* The PZB shall have no employees or contract vendors. The
199 Planning and Development Services Department shall provide clerical and staff support by formatting
200 and packaging board agendas, creating summary minutes of meetings, and maintaining PZB records.
201 The Planning and Development Services Department shall also provide professional and technical
202 assistance to the board consistent with its staffing and funding as approved by the City Commission.
203 The Director of Planning Development Services, or his or her designee, shall bring PZB reports and
204 recommendations to the City Commission in appropriate communications, the format and medium of
205 which shall be determined by the City Manager. Such communications shall include staff reports and
206 recommendations, application materials, correspondence, and other relevant information as
207 determined by the PZB, the Director of Development Services, the City Manager, or the City
208 Commission to be necessary to assist the City Commission in its deliberations. The PZB shall not
209 direct the staff to undertake any project, but may request reasonable staff assistance, and may report

210 through the Staff and City Manager to the City Commission any projects which the PZB deems
211 worthwhile for City Commission consideration by a majority vote of the PZB.
212

- 213 6) *Education.* Each PZB member and alternate members are required to engage in at least 8 hours of
214 continuing education per each year of service. Education includes but is not limited to the following:
215 attendance at a seminars or conferences, either in person or on-line; engage in the study of literature
216 regarding the duties and subject matters relevant to the role as a PZB member, such as reviewing
217 legal journals regarding property rights jurisprudence, etc.; and presentations by city legal and/or
218 planning staffs. The Planning and Development Services Department will make members and
219 alternates aware of League of Cities or other training sessions offered and dates and locations and/or
220 provide written materials concerning the role and duties of the board. New PZB members and
221 alternates are encouraged to start continuing education activities within the first six months of their
222 term. Staff will maintain a current record of all training/educational activities. The City will pay
223 reasonable expenses for such training/education. Continuing education hours will be calculated as
224 follows: 1) read and study planning journals; case law; and other literature — 2 hours per session. 2)
225 attend a seminar or participate in a webinar — 2hours per session; 3) attend a legal staff presentation
226 on Sunshine law; ethics, etc.— 2 hours per session.
227
- 228 7) *Compensation, annual budget.* Each PZB member may be reimbursed for reasonable expenses
229 incurred in connection with his or her duties on the board in accordance with reimbursement policies
230 and amounts established by a resolution of the City Commission. The City Commission shall provide
231 members of the board with professional liability insurance to cover potential claims of personal liability
232 for damages as a result of their formal actions and decisions as members of the board. The City
233 Manager shall recommend the amounts of insurance coverage and potential insurance carriers to the
234 City Commission. The City Commission shall provide an annual budget for training and education of
235 board members; for printing of training materials and decision support materials; and for the purchase
236 of books and publications that increase the board members' understanding of the board's functions
237 and of the issues faced by the PZB. The amount budgeted for each purpose shall be determined by
238 the City Commission upon the receipt of the recommendations of the City Manager. The City
239 Commission may also budget for public information and participation, and for other items that it deems
240 appropriate to include in the board's budget.
241
- 242 8) *Procedures.* The PZB shall meet at regular intervals once each month, and at such other times as it
243 may deem necessary, for the transaction of its business. It shall follow the by-laws adopted by
244 resolution of the City Commission. Unless otherwise stated in the by-laws, and until such by-laws are
245 adopted by the City Commission, the PZB shall conduct its affairs in accordance with Robert's Rules
246 of Order and Florida Sunshine Law per Florida Statutes. Points of order shall not be raised in PZB
247 meetings by members of the audience. The City's Police Department shall provide a officer to maintain
248 order at board meetings upon the request of either the chairperson, or the Director of Planning
249 Development Services. The PZB shall keep a properly indexed public record of its resolutions,
250 transactions, findings and recommendations. The board may by resolution limit the number of
251 applications of all types or of any type which it shall hear each month. A quorum shall be four
252 members.
253
- 254 9) *Quorum required.* A minimum of four (4) PZB members present at a duly called meeting shall
255 constitute a quorum. PZB members participating virtually count towards the quorum and can vote
256 as if they were physically present in accordance with Florida Statutes.
257
- 258 10) *Majority vote required.* Recommendations of approval, or approvals where the PZB is authorized to
259 take final action on an application, require a majority vote of the number of PZB present at a duly
260 called meeting with a quorum. A "tie vote" will constitute a denial.
261
- 262 11) *Duties and responsibilities.*
263

- 264 (a) *Designation as the local planning agency.* The Board is hereby designated as the City's local
265 planning agency (LPA), as required by the Local Government Comprehensive Planning and
266 Land Development Regulation Act, Section 163.3161 et seq., and F.S. § 163.3174. The Board
267 shall have the general responsibility for adherence to the comprehensive planning program.
268 The Board and the comprehensive planning program shall comply with all requirements of the
269 Local Government Comprehensive Planning and Land Development Regulation Act and the
270 board shall monitor and oversee the effectiveness and status of the comprehensive plan and
271 recommend to the City Commission such changes in the comprehensive plan, as may from
272 time to time. The board shall perform any other duties assigned by the City Commission, and
273 may prepare and recommend to the City Commission any other proposals to implement the
274 comprehensive plan.
275
- 276 (b) *Designation as the Planning and Zoning Board.* The PZB is hereby designated as the City's
277 Planning and Zoning Board in accordance with the provisions of the Local Government
278 Comprehensive Planning and Land Development Regulations Act, F.S. § 163.3161, et seq.,
279 and F.S. § 163.3194. The PZB shall develop and recommend to the City Commission land
280 development regulations that implement the comprehensive plan and review land
281 development regulations or amendments thereto for consistency with the adopted
282 comprehensive plan.
283
- 284 (c) *Recommendation to the City Commission on development applications.* The PZB shall review
285 and recommend approval or denial of the following development applications and proposals
286 to be transmitted to the City Commission for a vote on the following items:
287
- 288 (1) Comprehensive Plan Amendments, including future land use map amendments and text
289 amendments;
 - 290 (2) Changes to the Land Development Code or a proposed new Land Development Code,
291 including subdivision regulations;
 - 292 (3) Rezonings, including Planned Unit Developments (PUDs);
 - 293 (4) Amendments to the approved Capital Improvements Program or budget;
 - 294 (5) Proposed development agreements created pursuant to the "Florida Local Government
295 Development Agreement Act".
 - 296 (6) Community Redevelopment Agencies (CRAs); and
 - 297 (7) Final Plats for over 200 lots.
- 298
- 299 (d) *Advisory recommendations to the City Commission.* The PZB shall make a recommendation
300 to the City Commission by formal written approved motion of the PZB as to the conclusion of
301 the PZB's review that an application or proposal should be considered by the City Commission
302 for approval, approval with specific conditions recommended by the PZB, or denial. The PZB's
303 recommendation shall be transmitted to the City Commission with all related information
304 through the established City Commission agenda process. The recommendations of the PZB,
305 where provided, shall be advisory only and shall not be binding upon the City Commission.
306
- 307 (e) *Approval authority.* The PZB shall have the authority to approve or deny requests for Minor
308 Conditional Uses and Major Variances, subject to the criteria set forth in Article II.
309
- 310 (f) *Applications and proposals exempt from board review.* PZB review shall not be required for
311 amendments to City ordinances that are initiated by the staff or the City Commission to correct
312 grammar and spelling errors, change fees as set by the City Commission, change the
313 organization of the ordinances with no content changes, or change processing procedures
314 when mandated by state statutes.
315

316 **Sec. 74-5. – Development Review Committee.**
317

- 318 (1) *Established.* There is hereby established a Development Review Committee (DRC).
319
320 (2) *Membership.* Membership of the DRC shall include the following, or their designated representative:
321
322 a. Planning and Development Services Director;
323 b. City Engineer or Public Works Director;
324 c. City Fire Marshal or Fire Safety Manager; or
325 d. Other members as may be designated by the City Manager.
326

327 Other city, county, local, state or federal agencies may be consulted by the DRC for advice or
328 recommendations on any matter or application being considered by the DRC. The City Manager may
329 add or delete additional members of the DRC as he/she may deem necessary to promote the
330 implementation of this Land Development Code. The City Manager shall appoint a chairman of the DRC
331 from among the members of the DRC to preside at the meetings.
332

- 333 (3) *Duties and responsibilities.* The DRC shall have the following duties relating to development applications
334 that are addressed in this LDC:
335

- 336 a. Reviewing all applications under this Land Development Code to:
337 1. Delineate areas of non-compliance with the City's Comprehensive Plan, LDC and other
338 applicable regulations; and
339 2. Define steps necessary to bring applications into compliance with city development
340 requirements.
341 3. Provide input to Planning and Development Services Staff to include in staff reports, where
342 applicable.
343 4. Provide input to Planning and Development Services Director to include in final actions
344 authorized by this LDC.
345
346 c. Performing additional duties as the city manager may, from time to time, assign.
347

- 348 (4) *Meetings.* The DRC shall meet, as required, at a place determined by the DRC. An agenda and report
349 shall be prepared and distributed to each member and to the applicant at least 5 working days prior to
350 each meeting. All applicants having requests to be reviewed by the DRC shall be invited to attend and
351 participate in the meeting. The records of the proceedings of the DRC meetings shall be kept.
352

353 **Sec. 74-6. - Planning and Development Services Director.**
354

- 355 (1) *Generally.* The Planning and Development Services Director ("Director") shall administer and enforce this
356 LDC. The Director is authorized to act through designees. In the performance of his or her duties, the
357 Director may request the assistance of any appropriate officer or agency of the City.
358

- 359 (2) *Powers and Duties.* The Director shall have the following duties relating to development applications that
360 are addressed in this LDC:

- 361 a. Interpretation of this LDC where such interpretation is necessary;
362 b. Enforcement of this LDC as necessary;
363 c. Decision-making authority, in consultation with the DRC and Planning and Development Services
364 Staff for development applications under this Article, including; Conceptual Site Plans, Final Site
365 Plans, Preliminary Plats, Vacation of Easements, Minor Variances, Zoning Designation Letters
366 and miscellaneous administration permits.
367 d. Establish timeframe guidelines on staff reviews for development review procedures within Article
368 II.
369 e. When, in the judgment of the Planning and Development Services Director, strict application of
370 the applicable requirements of this Land Development Code will be inequitable, unreasonable,
371 stifle innovative design, or create an undue hardship when applied to a specific project or
372 development, the Director may modify such requirements to the extent necessary to achieve
373 equity or reasonableness or relieve the undue hardship. However, no such modification shall be

374 contrary to the requirements of law or the general policies of this Land Development Code.
 375 Furthermore, any modification applied to one development shall not establish precedent with
 376 regard to any other development subject to review. The discretion of the Director shall be limited
 377 to no more than ten percent (10%) variance from any requirement herein as it relates to decisions
 378 that are within the final control the Director.
 379

380 **Sec. 74-7. - Planning and Development Services Department.**

- 381
 382 (1) *Duties and responsibilities.* The Planning and Development Services Department shall have the following
 383 duties relating to development applications that are addressed in this LDC:
 384
 385 a. Being a central intake point for applications;
 386 b. Reviewing applications for completeness;
 387 c. Acting as a liaison between applicants and the DRC;
 388 d. Preparing staff recommendations on development applications as set forth in Article
 389 II.
 390 e. Preparing and distributing agendas and reports for meetings of the DRC, P&Z, and
 391 the City Commission;
 392 f. Taking and preparing the minutes of all DRC and Planning and Zoning Board
 393 meetings;
 394 g. Comparing and ensuring final engineering construction plans and final plats with an
 395 approved development order and zoning regulations to ensure consistency;
 396 h. Coordinating application review procedures;
 397 i. Issuing concurrency certificates of capacity;
 398 j. Issuing development orders and development permit approvals, where applicable as
 399 set forth in Article II;
 400 k. Obtaining validation from the applicant regarding the recordation of final subdivision
 401 plats with the Volusia County Clerk of the Circuit Court; and
 402 l. Performing other functions, as may be assigned by the director of Planning and
 403 Development Services.

404 **Sec. 74-8. - Summary of Authority.**

- 405 (a) The authority summarized in the following table does not supersede the regulations of any Section of
 406 this LDC. Additional powers and duties may be included in the previous sections of this Article.

Review Procedure/ Development Application Type	Director of Planning and Development Services	Development Review Committee	Planning and Zoning Board	City Commission
Amendment to the Land Development Code	Report	Report	Recommendation	Decision
Amendment to the Zoning Map	Report	Report	Recommendation	Decision
Appeal Application	Report	N/A	Decision	N/A
Conceptual Site Plan Application	Decision	N/A	N/A	N/A
Conditional Use (Minor)	Report	Report	Decision	N/A
Conditional Use (Major)	Report	Report	N/A	Decision
Final Plat Application	Report	Report	Recommendation ⁽¹⁾	Decision
Final Site Plan Application	Decision	Report	N/A	N/A
Petition for Voluntary Annexation of Property	Report	Report	N/A	Decision
Preliminary Plat	Decision	Report	N/A	N/A
Vacate of Easements	Decision	Report	N/A	N/A

Vacation of ROW	Report	Report	N/A	Decision
Zoning Variance (Minor)	Decision	N/A	N/A	N/A
Zoning Variance (Major)	Report	Report	Decision	N/A
Zoning Designation Letter	Decision	N/A	N/A	N/A
Miscellaneous Administrative Permits ⁽²⁾	Decision	N/A	N/A	N/A

(1) Subdivisions containing 200 or more lots require a recommendation by the Planning and Zoning Board during a public hearing.

(2) Includes: block party permits, lot combinations, Concurrency Certificate of Capacity-Inquiry, Concurrent Review, Lawn Protection Devices Permit, Lot Fill Permit, Solicitation Permit on Public Road Right-of-Way, Stormwater Permit, Subdivision Exemption, Tree Removal Permit, Volusia County Impact Fee Registration, Wetlands Development-Alteration Permit

ARTICLE II. – DEVELOPMENT REVIEW PROCEDURES AND CRITERIA.

Sec. 74-9. Application review requirements.

Development applications as defined by Chapter 74 of this Code, shall be reviewed, as appropriate, by the Planning and Development Services Director, the Development Review Committee (DRC), the Planning and Zoning Board, and the City Commission. development orders shall only be issued after all required reviews and appropriate final action have been taken by the appropriate decision making bodies. No application for a development order shall be approved which does not comply with the following:

- (1) The Comprehensive Plan;
- (2) This Land Development Code; or
- (3) Other applicable regulations.

Sec. 74-10. General development review procedures.

All applications and supporting information required by this Land Development Code shall be filed with the Planning and Development Services Department. The following review procedures are established within Sections 74-11 and 74-22 as follows:

Review Procedure/ Development Application Type	Procedure Location
Amendment to the Land Development Code	Sec. 74-12
Voluntary Annexation of Property	Sec. 74-13
Amendment to the Zoning Map/Rezoning	Sec. 74-14
Planned Unit Development Rezoning	Sec. 74-15
Conditional Use (Minor)	Sec. 74-16
Conditional Use (Major)	Sec. 74-17
Conceptual Site Plan Application	Sec.74-18
Final Site Plan Application	Sec. 74-19
Preliminary Plat	Sec. 74-20
Final Plat Application	Sec. 74-21
Vacations	Sec. 74-22
Zoning Variance (Minor)	Sec. 74-23
Zoning Variance (Major)	Sec. 74-24

All required application fees, as set by resolution of the City Commission, shall be paid prior to acceptance of the application. The number of copies of the supporting information needed for distribution to all concerned reviewing

440 agencies, as determined by the Planning and Development Services Director or his/her designee, shall be
441 submitted with the application prior to acceptance by the City. Except as otherwise provided in this Land
442 Development Code, the following procedures shall govern the review of applicable applications;

443
444 (a) *Completeness of application.* The Planning and Development Services Director or his/her designee shall
445 review the application to determine its completeness and either accept the complete application and forward
446 to the applicant a notice of acceptance, or reject the application if it is incomplete and forward to the applicant
447 a notice of incompleteness specifying the data missing from the application received.

448
449 If a notice of incompleteness is sent, the applicant may resubmit the application with the additional data
450 required by the City. Upon receipt, the Planning and Development Services Director or his/her designee shall
451 review the resubmittal application in the manner provided in this subsection for the original application.

452
453 (b) *Distribution of accepted application.* Following acceptance of an application, the Planning and Development
454 Services Department shall forward a copy of the application to all applicable city review agencies and to any
455 county, regional, state, or federal agency deemed by the Planning and Development Services Director or
456 his/her designee to be a concerned agency for the review process.

457
458 (c) *Review responsibilities.* Each member of the city review agency shall prepare a report that details their
459 comments specifying the exact references to the Code or other regulations being commented on and
460 recommendations regarding the application. Comments shall be forwarded to the Planning and Development
461 Services Director or his/her designee before the meeting of the DRC held in accordance with this Land
462 Development Code. The Planning and Development Services Director or his/her designee may waive one or
463 more agency reviews, in whole or in part, under this section upon his/her determination that such a review has
464 already been made regarding the same land and no change in standards or circumstances has occurred which
465 necessitates further review.

466
467 (d) *Review.* Applications shall be reviewed by the DRC and shall be discussed at a scheduled DRC meeting that
468 is held in accordance with the requirements of this Land Development Code. The Planning and Development
469 Services Director or his/her designee shall distribute the application for review and, where appropriate,
470 recommendation or determination, as in subsection 74-4(b), and may waive the requirement that the
471 application be reviewed at a DRC meeting. If review of the application at the DRC's meeting has been waived,
472 the Planning and Development Services Director or his/her designee shall coordinate appropriate informal
473 review and forward to the applicant a report of the DRC's actions within twenty working days of acceptance of
474 the application or as prescribed in section 74-4(e).

475
476 (e) *Application revision.* An application may be revised by the applicant after it has been reviewed by the DRC.

477
478 (f) *Planning and Zoning Board recommendation.* For applicable development applications, at a regularly
479 scheduled public meeting, the Planning and Zoning Board shall review the application and make
480 recommendations to the City Commission, except for those applications where the Planning and Zoning Board
481 has decision-making authority per this LDC and is authorized to take final action on the application.

482
483 (g) *City Commission final action.* For applicable development applications, at a regularly scheduled public
484 meeting the City Commission shall review the application and the recommendation of Staff and the Planning
485 Zoning Board for conformity to this Land Development Code and shall act appropriately upon the application.

486
487 a. The appropriate action of the City Commission shall be one of the following determinations:

- 488
489 1. That the application is in compliance with the requirements of this Land Development Code,
490 then the City Commission shall approve the application;
- 491 2. That the application is not fully in compliance with the requirements of this Land Development
492 Code, stating those conditions that are necessary to ensure compliance with this Land
493 Development Code, then the City Commission shall approve the application subject to those
494 conditions being met;

- 495 3. That the application is not in compliance with requirements of this Land Development Code,
496 then the City Commission shall deny the application and state the basis for such denial;
497 4. A final determination by the City Commission under this subsection may be deferred if the
498 City Commission finds that available information is insufficient to base either approval or
499 denial of a particular application. In that event, the City Commission will direct that a specific
500 study commence, or specific information be provided, to give the City Commission sufficient
501 information to form the basis on which to approve or deny the application. The information
502 shall be provided, or the study shall be completed within a time certain, not to exceed six
503 months from the date of the City Commission's determination under this subsection. A
504 prerequisite to directing that a specific study commence to provide the City Commission with
505 information sufficient to form the basis on which to approve or deny a particular application,
506 is that the City Commission shall identify the inadequacy of the information available with
507 respect to the application; or
508 5. If the City Commission determines that adequate public facilities required under this chapter
509 are not available, but are planned to become available in the future, they may:
510 (i) Defer action until adequate public facilities are available;
511 (ii) Approve the application subject to the condition that no building permit shall be
512 issued until adequate public facilities are available;
513 (iii) Approve the application subject to the condition that no certificate of occupancy be
514 issued until adequate public facilities are available; or
515 (iv) Approve the application subject to the condition that the developer enter into a
516 public services and facilities agreement pursuant to this chapter to ensure that
517 adequate public facilities are available at the time the impacts of the development
518 occur.
519
520 (h) Valid period and issuance of development approvals shall be in accordance with this Article. During the period
521 of 90 days before and 90 days after the expiration of any development order, the developer may request an
522 extension of that valid period from the Planning and Development Services Department. The Director may
523 approve an extension of that valid period for a period of time not to exceed 12 months and may attach such
524 conditions as they determine appropriate.
525

526 **Sec. 74-11. Development orders, development permits, approval authority, installation of improvements,**
527 **public services and facilities agreements, and appeals.**
528

- 529 (a) *Purpose.* The purpose of this section is to provide for the applicability, approval and issuance of
530 development orders and development permits to ensure that all of the provisions of this chapter are
531 complied with and to provide for an appeal process.
532
533 (b) *Applicability.* No person shall undertake the development of land in the city except pursuant to a valid
534 development order and/or development permit issued under this Land Development Code, unless
535 specifically exempted as provided by this Land Development Code. All development shall meet the
536 requirements of this Land Development Code prior to the approval and issuance of any development order
537 or development permit, unless specifically exempted from the requirements of this Land Development
538 Code by provisions set forth herein, or one or more requirements are waived in accordance with provisions
539 set forth herein.
540
541 (c) *Approving authority.* The Planning and Development Services, Planning and Zoning Board and the City
542 Commission shall, as applicable, approve, approve with conditions, or deny the issuance of a development
543 order or development permit as set forth in this LDC. The DRC or the City Commission, as applicable, on
544 their own motion and for cause, may continue consideration of an application to a subsequent meeting.
545
546 (d) *Issuance of Approval.* Upon final action by the authorized decision-making body, the development permit
547 will be issued to the applicant.
548

- 549 (1) *Issuance of development order for site plan.* The Planning and Development Services
550 Director or his/her designee shall administratively issue a development order for site plan,
551 either with or without conditions, or deny the issuance of the development order, whichever
552 is consistent with the action of the Development Review Committee (DRC).
553
- 554 (2) *Issuance of development order for subdivision plats.* Development orders shall be issued
555 for all subdivision preliminary plats and final plats in accordance with the Land Development
556 Code provisions of Chapter 106. Final plats shall be approved by the City Commission and
557 recorded in the Volusia County Clerk of the Circuit Court office, as prescribed by Chapter
558 106.
559
- 560 (e) *Installation of improvements.* All improvements required to be installed, constructed or provided by the
561 developer as a condition to the approval of a development order, shall be installed and completed or
562 guaranteed as specified in this Land Development Code and compliant with all other applicable
563 regulations.
564
- 565 (f) *Public services and facilities agreements.* In order to further the purposes of this Land Development Code
566 and other applicable regulations regarding the provision of public services and facilities to a proposed
567 development, the City Commission may enter into an agreement with the developer of the proposed
568 development that is consistent with Chapter 86 of this Land Development Code.
569
- 570 (1) Ensure the certainty of providing public services and facilities for the proposed project;
571 (2) Ensure the provisions of public services and facilities to other developments in the vicinity of the
572 proposed development;
573 (3) Allocate the costs of providing public services and facilities;
574 (4) Allocate the capacities of the public services and facilities;
575 (5) Determine the responsibilities for construction and maintenance of the public services and facilities.
576
- 577 (g) *Appeals.* Any person claiming to be aggrieved by a final decision of the Planning and Development
578 Services Director, the DRC, or the Planning and Zoning Board, may file with all applicable fees a written
579 appeal within 15 days after said decision to the Planning and Development Services Director or his/her
580 designee to have the decision reviewed by the City Commission. The appeal shall state fully the specific
581 grounds for the appeal and all of the facts relied upon by the petitioner. The City Commission shall
582 consider only those items specified in the petition.
583

584 **Sec. 74-12. Amendments to Land Development Code procedure.**
585

- 586 (a) *Applicability.* This LDC may from time to time be amended, supplemented, changed, or repealed. These
587 amendments will generally be initiated by the City at the direction of the City Commission.
- 588 (b) *Review procedure.* The following procedures apply to all requests to amend the LDC.
- 589 (1) *Application submittal.* All applications for a LDC Amendment shall be submitted in writing to the City,
590 along with the appropriate fee(s). A LDC Amendment may be proposed by:
- 591 a. The City Commission;
592 b. The Planning and Zoning Board with authorization from the Commission; and
593 d. Any City Department or other agency of the City with authorization from the Commission.
- 594 (2) *Application sufficiency.* Applications proposing LDC Amendments shall be accompanied by a clear
595 statement and accounting that the applicant's purpose for the requested text amendment. The
596 statement shall include those fact presents s that clarify the need for the text amendment, the text
597 amendment's context, and the consequences of the text amendment. The application shall address
598 how the text amendment preserves the LDC's consistency with the Comprehensive Plan.

- 599 (3) *Application review and criteria.* The staff reviewing the proposed text amendment shall consult with
600 other City departments and agencies, and the Development Review Coordination (DRC) staff. The
601 Staff and DRC shall consider the following during application review and prepare an official report and
602 recommendation.
- 603 a. The need and justification for the proposed amendment;
- 604 b. Applicability and impacts of the proposed amendment city-wide; and
- 605 c. The relationship of the proposed amendment to the City's Comprehensive Plan, with appropriate
606 consideration of consistency with the Comprehensive Plan and as to whether the proposed
607 amendment will further the purposes of this LDC and actions designed to implement the
608 Comprehensive Plan.
- 609 (4) *Public Hearing Notification Requirements.* Notice shall be provided as set forth within Section 74-25
610 for both the Planning and Zoning Board and City Commission public hearings.
- 611 (5) *Public Hearings.* Except as expressly directed by a vote of the Commission, LDC Amendments shall
612 be considered first by the Planning and Zoning Board and subsequently by the City Commission at
613 duly noticed public hearings respectively.
- 614 (6) *Action.* Final action on all LDC amendments shall be taken by the City Commission, after receiving
615 the recommendation from the Planning and Zoning Board on the application and based upon the
616 review criteria set forth in this section. The City Commission may approve or deny the amendment or
617 approve with modifications.
- 618 (7) *Validity.* Land Development Code Amendments do not expire and shall remain in effect in perpetuity
619 until such time as the LDC is further amended in accordance with the procedures in this Section.

620 **Sec. 74-13. Voluntary annexation procedure.**
621

- 622 (a) *Applicability.* Voluntary Annexations of land from unincorporated Volusia County into the City's municipal
623 boundary may be permitted in accordance with Chapter 171, Florida Statutes.
- 624 (b) *Review procedure.* The following procedures apply to all requests to voluntarily annex lands into the City.
- 625 (1) *Pre-application meeting.* A pre-application meeting on all voluntary annexations is required.
- 626 (2) *Application submittal.* All applications for Voluntary Annexation shall be submitted on the official form
627 provided by the City and accompanied by all pertinent information required by this LDC. Any person
628 may file for voluntary annexation of his or her property. No person shall apply for a Voluntary
629 Annexation of property (except as agent or attorney for an owner) which he or she does not own. The
630 name(s) of the owner shall appear on each application and a signed and notarized authorization form
631 must be provided. The application shall disclose full ownership.
- 632 (3) *Application sufficiency.* Applications for Voluntary Annexations shall be accompanied by all
633 requirements set forth on the City's official application form, along with an analysis of the annexation's
634 conformance with the minimum requirements of Chapter 171, Florida Statutes.
- 635 (4) *Application review and criteria.* The staff reviewing the proposed voluntary annexation shall consult
636 with other City departments and agencies, and the DRC. The Staff and DRC shall consider the
637 following during application review and prepare an official report and recommendation:
- 638 a. Whether or not the property is concentrated in a single area.
- 639 b. Whether or not the property is be contiguous to the current city limits.
- 640 c. Whether or not the annexation creates enclaves, which are unincorporated areas enclosed
641 within a municipality.
- 642 d. Whether or not all property owners in the area provided consent to the annexation.
- 643 (5) *Public Hearing Notification Requirements.* Notice shall be provided as set forth within Section 74-25
644 for City Commission public hearings.

- 645 (6) *Public Hearings.* Voluntary Annexations shall be considered by the City Commission at duly noticed
646 public hearings respectively.
- 647 (7) *Action.* Final action on all Voluntary Annexations applications shall be taken by the City Commission,
648 after receiving the recommendation from the Planning and Zoning Board on the application, based
649 upon the review criteria set forth in this section. The City Commission may grant or deny the
650 application.
- 651 (8) *Validity.* Annexations do not expire and shall remain in effect in perpetuity unless an application for
652 contraction is approved in accordance with Florida Statutes.

653
654 **Sec. 74-14. Amendments to official zoning map (Rezoning) procedure.**
655

- 656 (a) *Applicability.* The Official Zoning Map may, from time to time, be amended, supplemented, or changed.
- 657 (b) *Review procedure.* The following procedures apply to all requests to amend the official zoning map by
658 landowners or those authorized by the landowner to apply for such amendments.
- 659 (1) *Pre-application meeting.* A pre-application meeting on all privately-initiated Rezoning applications is
660 required.
- 661 (2) *Application submittal.* All applications for Rezoning shall be submitted on the official form provided by
662 the City and accompanied by all pertinent information required by this LDC. A Zoning Map amendment
663 may be proposed by:
- 664 a. The City Commission;
- 665 b. Any department or agency of the City with authorization from the Commission or
- 666 c. Any person other than those listed in a. or b. above; provided, however, that no person shall apply
667 for a Rezoning of property (except as agent or attorney for an owner) which he or she does not
668 own. The name(s) of the owner shall appear on each application and a signed and notarized
669 authorization form must be provided. The application shall disclose full ownership.
- 670 (3) *Application sufficiency.* Applications for Rezoning shall be accompanied by all requirements set forth on
671 the City's official application form, along with a clear statement and accounting that presents the
672 applicant's purpose for the requested Rezoning. The statement shall include those facts that clarify the
673 need for the Rezoning, the Rezoning application's context, and the consequences of the Rezoning. The
674 application shall address how the Rezoning preserves the LDC's consistency with the Comprehensive
675 Plan, and each of the findings within subsection (4) below.
- 676 (4) *Application review and criteria.* The staff reviewing the proposed Rezoning shall consult with other City
677 departments and agencies, and the DRC. The Staff and DRC shall consider the following during
678 application review and prepare an official report and recommendation:
- 679 a. Whether the proposed change would be consistent with the intent, goals, objectives, policies,
680 guiding principles and programs of the Comprehensive Plan;
- 681 b. Whether the proposed change would be compatible with the existing land use pattern and
682 designated future land uses;
- 683 c. Whether the proposed change would have an impact on the availability of adequate public facilities,
684 services and infrastructure consistent with the level of service standards adopted in the
685 Comprehensive Plan.
- 686 d. Whether the existing district boundaries are illogically drawn in relation to existing conditions on
687 the property proposed for change;
- 688 e. Whether the proposed change will adversely influence living conditions in the neighborhood;
- 689 f. Whether the proposed change will create a drainage or flooding problem;

- 690 g. Whether there are substantial reasons why the property cannot be used in accord with existing
691 zoning;
- 692 j. Whether the proposed change would create adverse impacts in the adjacent area or the City in
693 general;
- 694 k. Whether the subject parcel is of adequate shape and size to accommodate the proposed change;
- 695 l. Whether ingress and egress to the subject parcel and internal circulation would adversely affect
696 traffic flow or safety or control, or create types of traffic deemed incompatible with surrounding
697 land uses; and
- 698 m. Whether school capacity has been adequately addressed, including on-and off-site
699 improvements.
- 700 (5) *Public Hearing Notification Requirements.* Notice shall be provided as set forth within Section 74-25 for
701 both the Planning and Zoning Board and City Commission public hearings.
- 702 (6) *Public Hearings.* Rezoning shall be considered first by the Planning and Zoning Board and subsequently
703 by the City Commission at duly noticed public hearings respectively based upon the review criteria set
704 forth in this section. At the required public hearing, the Planning and Zoning Board may recommend to
705 the City Commission that the request for a Rezoning be approved, approved with stipulations or denied.
706 In making its recommendation, the Planning and Zoning Board shall find that the plans, maps and
707 documents submitted by the applicant and presented at the public hearing do or do not establish that the
708 applicant has met the requirements of the criteria for rezoning set forth in this LDC.
- 709 (7) *Action.* Final action on all Rezoning applications shall be taken by the City Commission. After receiving
710 the recommendation from the Planning and Zoning Board on the application, the City Commission may
711 grant or deny the application or modify the application to a zoning district consistent with the
712 Comprehensive Plan. The Commission may make the granting conditional upon such restrictions,
713 stipulations and safeguards as it may deem necessary to ensure consistency with the Comprehensive
714 Plan.
- 715 a. Restrictions, stipulations, and safeguards attached to a Rezoning of property may include but are
716 not limited to those necessary to protect adjacent or nearby land owners from any deleterious
717 effects from the full impact of any permitted uses, limitations more restrictive than those generally
718 applying to the district including, but not limited to, density, height, buffers, connection to central
719 water and sewer systems and stipulations requiring that certain aspects of development take place
720 in accordance with a Development Concept Plan. The Commission may also stipulate that the
721 development take place within a given period of time after which time public hearings will be initiated
722 and the district returned to the original designation or such other district as determined appropriate
723 by the Commission that is consistent with the Comprehensive Plan.
- 724 b. All stipulations shall be recorded by the Volusia County Clerk of Courts.
- 725 e. *Binding Nature of Approval.* All terms, conditions, safeguards, and stipulations made at the time of
726 approval for any district subject to this section shall be binding upon the applicant or any successors
727 in interest.
- 728 (8) *Validity.* Rezoning approvals do not expire and shall remain in effect until such time as the official Zoning
729 Map is further amended.
- 730 (c) *Other Applicable Provisions.*
- 731 (1) *Limitations on the Refiling of a Rezoning Application.* Whenever the City Commission has taken final
732 action on a Rezoning application for property, whether approved or denied, the City shall not accept any
733 further application for any Rezoning of any part of or all of the same property for a period of 12 months
734 from the date of such action, or the date of final judicial review of such action, whichever is later.
- 735 (2) *Violations.* Violations of restrictions, stipulations, or safeguards contained in a Rezoning granted by the
736 Commission shall constitute a violation of this LDC.
- 737

738 **Sec. 74-15. Planned Unit Development Rezoning Procedure.**
739

740 (a) *Applicability.* The provisions contained herein shall apply to the Rezoning to the Planned Unit Development
741 (PUD) Districts.

742 (1) *Unified Control.* All land included for purpose of development as a PUD shall be under the legal control
743 of the applicant. Applicants requesting approval of a PUD shall present firm evidence of unified control
744 of the entire area within the proposed planned development together with a certificate of apparent
745 ownership and encumbrance with the opinion of counsel representing the applicant, establishing that the
746 applicant has the unrestricted right to impose all of the covenants and conditions upon the land as are
747 contemplated by the provisions of this LDC.

748 (b) *Review procedure.*

749 (1) *Pre-application meeting.* Prior to initiating an application for a PUD Rezoning, a pre-application meeting
750 with staff is required.

751 (2) *Application submittal.* All applications for PUD Rezoning shall be submitted on the official form provided
752 by the City and accompanied by all pertinent information required by this LDC. A PUD Rezoning
753 amendment may be proposed by:

754 a. The City Commission (for city-owned lands);

755 b. Any person provided, however, that no person shall apply for a PUD Rezoning of property (except
756 as agent or attorney for an owner) which he or she does not own. The name(s) of the owner shall
757 appear on each application and a signed and notarized authorization form must be provided. The
758 application shall disclose full ownership.

759 (3) *Application Sufficiency.* Applications for a PUD shall be accompanied by a clear statement and
760 accounting that presents the applicant's purpose for the requested Planned Unit Development. The
761 statement shall include those facts that clarify the need for the PUD, the PUD application's context, the
762 consequences of the PUD, each of the findings for Rezoning set forth in 74-14 and within subsection
763 (4) below.

764 (4) *Application review and criteria.* The staff reviewing the proposed PUD Rezoning shall consult with other
765 City departments and agencies, and the DRC. The Staff and DRC shall consider the following during
766 application review and prepare an official report and recommendation:

767 a. All of the criteria listed in this Section and Section 74-14;

768 b. Whether or not the PUD complies with the internal Planned Development District standards set out
769 for the specific District in Section 110-309;

770 c. Whether or not the development standards in the proposed Development Agreement justify such
771 modification of regulations and meet, to at least an equivalent degree, the regulations modified,
772 based on the design, enhancements and amenities incorporated in the Master Development Plan;
773 and

774 d. Applicability of the proposed PUD city-wide; and

775 e. The relationship of the proposed PUD to the Comprehensive Plan, with appropriate consideration of
776 consistency and as to whether the proposed PUD will further the purposes of this LDC and the City
777 Code, regulations, and actions designed to implement the Comprehensive Plan.

778 (5) *Public Hearing Notification Requirements.* Notice shall be provided as set forth within Section 74-25 for
779 both the Planning and Zoning Board and City Commission public hearings.

780 (6) *Public Hearings.* All applications for PUD shall be considered first by the Planning and Zoning Board and
781 subsequently by the City Commission each at public hearings respectively. At the required public
782 hearing, the Planning and Zoning Board may recommend to the City Commission that the request for a
783 PUD be approved, approved with stipulations or denied. In making its recommendation, the Planning
784 and Zoning Board shall find that the plans, maps and documents submitted by the applicant and

785 presented at the public hearing do or do not establish that the applicant has met the requirements of the
786 criteria for PUD Rezone set forth in this LDC.

787 (7) *Action*. Final action on all PUD Rezoning applications shall be taken by the City Commission. After the
788 required public hearing, the Commission may approve, approve with stipulations or deny the application
789 for PUD.

790 a. Restrictions, stipulations, conditions, and safeguards attached to a Rezoning of property may
791 include but are not limited to those necessary to protect adjacent or nearby land owners from
792 any deleterious effects from the full impact of any permitted uses, limitations more restrictive
793 than those generally applying to the district including, but not limited to, density, height, buffers,
794 connection to central water and sewer systems and stipulations requiring that certain aspects of
795 development take place in accordance with a Development Concept Plan. The Commission may
796 also stipulate that the development take place within a given period of time after which time
797 public hearings will be initiated and the district returned to the original designation or such other
798 district as determined appropriate by the Commission that is consistent with the Comprehensive
799 Plan.

800 b. All stipulations, including the Development Agreement and MDP shall be recorded by the Volusia
801 County Clerk of Courts.

802 c. *Binding Nature of Approval*. All terms, conditions, safeguards, and stipulations made at the time
803 of approval for any district subject to this section shall be binding upon the applicant or any
804 successors in interest.

805 (8) *Validity*. The construction of the Planned Unit Development shall be started within two (2) years of the
806 effective date of approval of the plan by the Commission unless otherwise extended as permitted within
807 this Chapter. Failure to begin the development within said two (2) years shall automatically void the
808 development and the land shall revert to the same zoning classification which existed immediately
809 preceding the approval of the Planned Unit Development.

810 (8) *Amendments*. Minor amendments not altering the intent and purpose of the approved master
811 development plan or development agreement may be approved by the appropriate enforcement official
812 after departmental review and comment. Examples of minor amendments include de-minimis design-
813 oriented changes to landscaping, parking or building elevations. PUD amendments that are determined
814 to be major revisions to the MDP and/or Development Agreement will need to be reviewed and
815 processed under section 74-15 of the Land Development Code. Major amendments can be described
816 as materially altering proposals that involve changes of uses, density/intensity, increase of building
817 heights, reconfiguration of lots, etc.

818 (9) *Other Applicable Provisions*.

819 a. *Limitations on the Refiling of a PUD Rezoning Application*. Whenever the City Commission has
820 taken final action on a PUD Rezoning application for property, whether approved or denied, the
821 City shall not accept any further application for any PUD Rezoning of any part of or all of the
822 same property for a period of 12 months from the date of such action, or the date of final judicial
823 review of such action, whichever is later.

824 b. *Violations*. Violations of restrictions, stipulations, or safeguards contained in a PUD Rezoning
825 granted by the Commission shall constitute a violation of this LDC.

826 **Sec. 74-16. Conditional Uses.**

827 (a) *Applicability*. Conditional Uses include those uses that would not be appropriate generally or without
828 restriction throughout a zoning district but which, if controlled as to number, area, location or relation to the
829 neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience,
830 appearance, prosperity or the general welfare. Such use may be permissible in a zoning district as a Major
831 or Minor Conditional Use if specifically provided in this LDC. However, such uses are not deemed to be
832 appropriate within a zoning district without demonstration by the applicant that the Major or Minor
833 Conditional Use complies with this section.

834 (b) *Review Procedure*.

- 835 (1) *Pre-application Meeting.* A pre-application meeting on all Conditional Use applications is required.
- 836 (2) *Application Submittal.* All applications for Conditional Use approval shall be submitted on the official form
837 provided by the City and accompanied by all pertinent information required by this LDC. A Conditional
838 Use may be proposed by:
- 839 a. The City Commission (for city-owned lands);
- 840 b. Any person provided, however, that no person shall apply for a Conditional Use (except as agent
841 or attorney for an owner) which he or she does not own. The name(s) of the owner shall appear
842 on each application and a signed and notarized authorization form must be provided. The
843 application shall disclose full ownership.
- 844 (3) *Application Sufficiency.* Applications for a Conditional Use shall be accompanied by a clear
845 statement and accounting that presents the applicant's purpose for the requested Conditional Use.
846 The statement shall include those facts that clarify the need for the Conditional Use, the Conditional
847 Use application's context, and the consequences of the Conditional Use. The application shall
848 address how the Conditional Use preserves the LDC's consistency with the Comprehensive Plan,
849 and each of the findings within subsection (4) below. No application shall be accepted for a
850 Conditional Use that does not meet the minimum district requirements of Chapter 110. Where this
851 LDC places additional requirements or supplementary regulations on specific types of Conditional
852 Uses, the application shall demonstrate that such requirements are met. Where the applicant
853 requests simultaneous Rezoning of land as well as grant of a Conditional Use for the same parcel
854 of land, both applications may be processed concurrently in accordance with the procedures set
855 forth in this section.
- 856 (4) *Application Review and criteria.* The staff reviewing the proposed Conditional Use shall consult with
857 other City departments and agencies, and the DRC. The Staff and DRC shall consider the following
858 during application review and prepare an official report and recommendation:
- 859 a. Whether or not the granting of the Conditional Use will adversely affect the public interest, health,
860 safety, and general welfare;
- 861 b. Whether or not the request is inconsistent with the purpose or intent of this LDC;
- 862 c. Whether or not the request is consistent with the Comprehensive Plan;
- 863 d. Whether or not the request meets the expressed requirements of the applicable conditional
864 use;
- 865 e. Whether or not the request will generate undue traffic congestion;
- 866 f. Whether or not the request will create a hazard or a public nuisance, or be dangerous to
867 individuals or to the public.
- 868 g. Whether or not the request will negatively impact the character of surrounding neighborhoods
869 or adversely affect the value of surrounding land, structures or buildings.
- 870 h. Whether or not the request will adversely affect the natural environment, natural resources or
871 scenic beauty, or cause excessive pollution.
- 872
- 873 (5) *Public Hearing Notification Requirements.* Notice shall be provided as set forth within Section 74-25
874 for the City Commission public hearing.
- 875 (6) *Public Hearings.* All applications for Major Conditional Use shall be considered by the City
876 Commission at a public hearing. All applications for Minor Conditional Use shall be considered by the
877 Planning and Zoning Board at a public hearing. At the discretion of the City Manager or PZB, a Major
878 Conditional may be required to go before the City Commission for final approval.
- 879 (7) *Action.* The Commission shall take final action on all Major Conditional Use applications and the
880 Planning and Zoning Board shall take final action on all Minor Conditional Use applications based
881 upon the review criteria set forth in this section. The Commission and Planning and Zoning Board, in
882 the exercise of its sound discretion, may determine that Conditional Uses should be limited and
883 controlled as to number, area, location, duration, or relation to the neighborhood, in order to safeguard
884 and promote the public health, safety, welfare, morals, order, comfort, convenience, appearance,
885 prosperity, or the general welfare. The Commission or Planning and Zoning Board shall approve,
886 approve with conditions or stipulations, or deny the application.

- 887 a. Restrictions, stipulations, and safeguards attached to a Conditional Use may include but are not
 888 limited to those necessary to protect adjacent or nearby land owners from any deleterious effects
 889 from the full impact of any permitted uses and stipulations requiring that certain aspects of
 890 development take place in accordance with a binding site plan.
- 891 b. All stipulations, including the Development Agreement and MDP shall be recorded by the Volusia
 892 County Clerk of Courts.
- 893 c. Binding Nature of Approval. All terms, conditions, safeguards, and stipulations made at the time
 894 of approval for any district subject to this section shall be binding upon the applicant or any
 895 successors in interest.
- 896 (8) *Validity*. Conditional Use approvals shall remain in effect for one (1) year following approval unless a
 897 longer duration is granted as part of the approval.
- 898 (9) *Amendments*. Any changes or expansion of an approved Minor or Major Conditional Use will require
 899 filing of a new Conditional Use application.
- 900 (10) *Other Applicable Provisions*.
- 901 a. *Limitations on the Refiling of a Conditional Use application*. Whenever the City Commission or
 902 Planning and Zoning Board has taken final action on a Conditional Use application for property,
 903 whether approved or denied, the City shall not accept any further application for any Conditional
 904 Use of any part of or all of the same property for a period of 12 months from the date of such
 905 action, or the date of final judicial review of such action, whichever is later.
- 906 b. *Violations*. Violations of restrictions, stipulations, or safeguards contained in a Conditional Use
 907 granted by the City Commission or Planning and Zoning Board shall constitute a violation of this
 908 LDC.

909 **Sec. 74-17. Conceptual Site Plan Application.**

910

- 911 (a) *Applicability*. A Conceptual Site Plan application is an optional process the City offers to Applicants prior to
 912 submitting an application for Final Site Plan (FSP) approval in order to obtain preliminary review from the
 913 Planning and Development Services Department. This process is entirely voluntary and is not a
 914 requirement.
- 915 (b) *Review Procedure*.
- 916 (1) *Pre-application Meeting*. A pre-application meeting on all Conceptual Site Plan applications is required.
- 917 (2) *Application submittal*. All applications for Conceptual Site Plans shall be submitted on the official form
 918 provided by the City and accompanied by all pertinent information required by this LDC. A Conceptual
 919 Site Plan may be proposed by any person provided, however, that no person shall apply for a Conceptual
 920 Site Plan (except as agent or attorney for an owner) which he or she does not own. The name(s) of the
 921 owner shall appear on each application and a signed and notarized authorization form must be provided.
 922 The application shall disclose full ownership.
- 923 (3) *Application review*. The staff reviewing the proposed Conceptual Site Plan shall consult with other City
 924 departments and agencies, and the DRC staff. The City shall consider and study the Conceptual Site
 925 Plan's conformance to all requirements set forth in the LDC and Comprehensive Plan, as applicable.
- 926 (4) *Public Hearing Notification Requirements*. Conceptual Site Plans are subject to administrative review
 927 and approval and do not require public hearings, or related notifications.
- 928 (5) *Public Hearings*. Conceptual Site Plans are subject to administrative review and approval and do not
 929 require public hearings.
- 930 (6) *Action*. Final action on all Conceptual Site Plan applications shall be taken by the Planning and
 931 Development Services Director or his/her designee, after review by the DRC. The Director or his/her
 932 designee may make the granting conditional upon such restrictions, stipulations and safeguards as it
 933 may deem necessary to ensure consistency with the LDC and Comprehensive Plan.

934 (7) *Validity*. Conceptual Site Plan approvals shall remain in effect for one (1) year following approval by the
935 Director, unless a longer duration is granted as part of the approval letter.

936 **Sec. 74-18. Final Site Plans.**

937 (a) *Applicability*. The following development activities shall require Final Site Plan (FSP) review:

938 (1) Residential or non-residential developments including non-residential additions.

939 (2) A change in the use of property to any permitted use that will require or voluntarily result in a site
940 alteration in order to meet the provisions of the Land Development Code (e.g. a need for additional
941 parking); with the exception of non-residential structures occupied by multiple tenants where the
942 existing and proposed uses are permitted and no site alteration is proposed or required. In such
943 exceptions, no DRC review is required.

944 (3) Except or otherwise provided herein, applications for new paved areas shall be reviewed and approved
945 by the DRC. The review may be conducted informally without filing a site plan application or, due to
946 its complexity or size of project, warrant the submittal of a site plan application requiring a DRC
947 meeting, as may be determined by the Planning and Development Services Director.

948 (b) *Exempt development*. The following development activities shall not require Final Site Plan (FSP) review:

949 (1) Construction of a single-family home and customary accessory structures on an existing single family
950 zoned lot.

951 (2) Construction of a duplex and customary accessory uses on an existing duplex zoned lot.

952 (3) The installation of those improvements, which are required to develop a subdivision and for which
953 development order, plat approvals, and related permits have been issued, pursuant to chapter 106.

954 (4) Agricultural production practices, which include fencing, drainage, irrigation, and other agricultural
955 uses and structures, including portable structures, which do not conflict with existing city ordinances.

956 (5) Public buildings under 10,000 sq. ft., subject to staff review to include at a minimum Planning and
957 Development Services department, fire department, and public works department; and final action, to
958 ensure compliance with city ordinances and city fire codes.

959 (c) *Platting*. This section does not address requirements for preliminary and final plat approvals consistent
960 with Chapter 177, Florida Statutes. For information on subdivision preliminary plat development order
961 and final plat approvals, see Section 74-18 and 74-19 in this Article.

962 (b) *Review Procedure*.

963 (1) *Pre-application meeting*. A pre-application meeting on all FSP applications is required prior to
964 application submittal.

965 (2) *Application submittal*. All applications for Final Site Plans shall be submitted on the official form
966 provided by the City and accompanied by all pertinent information required by this LDC. A Final Site
967 Plan may be proposed by any person provided, however, that no person shall apply for a Final Site
968 Plan (except as agent or attorney for an owner) which he or she does not own. The name(s) of the
969 owner shall appear on each application and a signed and notarized authorization form must be
970 provided. The application shall disclose full ownership.

971 (3) *Application review*. The staff reviewing the proposed Final Site Plan shall consult with other City
972 departments and agencies, and the DRC staff. The City shall consider and study the FSP's
973 conformance to all requirements set forth in the LDC, Comprehensive Plan and Conceptual Site Plan,
974 as applicable.

975 (4) *Public Hearing Notification Requirements*. Final Site Plans are subject to administrative review and
976 approval and do not require public hearings, or related notifications.

977 (5) *Public Hearings*. Final Site Plans are subject to administrative review and approval and do not require
978 public hearings.

979 (6) *Action*. Final action on all Final Site Plan applications shall be taken by the Planning and Development
980 Services Director or his/her designee, after review by the DRC. The Director or his/her designee may
981 make the granting conditional upon such restrictions, stipulations and safeguards as it may deem
982 necessary to ensure consistency with the LDC and Comprehensive Plan.

983 *c. Post-approval stage.*

984 a. *Recordation*. Final Site Plans shall be recorded in the following manner:

985 i. Following approval, the developer/applicant shall submit two (2) original approved Final Site
986 Plans to the Planning and Development Services Director or his/her designee. The applicant
987 shall provide to the City an appropriate electronic version of the FSP in a format approved by
988 the Planning and Development Services Director or his/her designee.

989 ii. The Planning and Development Services Director shall record the FSP at Volusia County Clerk
990 of the Circuit Court.

991 (7) *Validity*. Final Site Plan approvals shall remain in effect for two (2) years following approval by the
992 Director, unless a longer duration is granted as part of the approval letter.

993 **Sec. 74-19. Preliminary Plats.**

994 (a) *Applicability*. Requirements for platting in the City shall be in accordance with Chapter 177, Florida Statutes.
995 In all cases involving phased developments, the applicant shall file a preliminary plat and engineering
996 construction plan and, upon receipt of the related development order, may then file a final plat application
997 for the first phase of the project. Final plat application may be filed concurrently with the preliminary plat
998 (PP) and engineering construction plan (ECP) application, provided the preliminary plat development order
999 is issued prior to DRC approval of the final plat application.

1000 For subdivisions that do not involve phased developments, the developer may bypass the requirement to
1001 file a preliminary plat application and proceed to file the final plat and engineering construction plan
1002 development order.

1003 (b) *Review Procedure.*

1004 (1) *Pre-application Meeting*. A pre-application meeting on all Preliminary Plat applications is required prior
1005 to application submittal.

1006 (2) *Application Submittal*. All applications for Preliminary Plat shall be submitted on the official form provided
1007 by the City and accompanied by all pertinent information, plans and plat as set forth on the form. The
1008 Applicant shall submit an appropriate number of copies, as determined by the Planning and Development
1009 Services Director or his/her designee at the pre-application meeting.

1010 g. *Application Review*. The preliminary plat and engineering construction plan application shall be reviewed
1011 by Planning and Development Services Staff and DRC in consultation with other City departments for
1012 consistency with this Land Development Code, Florida Statutes and all other applicable regulations.

1013 h. *Public Hearing Notification Requirements*. Preliminary Plats are subject to administrative review and
1014 approval and do not require public hearings, or related notifications.

1015 i. *Public Hearings*. Preliminary Plats are subject to administrative review and approval and do not require
1016 public hearings.

1017 j. *Action*. Final action on all Preliminary Plat applications shall be taken by the Planning and Development
1018 Services Director or his/her designee, after review by the DRC. The Director or his/her designee may
1019 make the granting conditional upon such restrictions, stipulations and safeguards as it may deem
1020 necessary to ensure consistency with the LDC and Comprehensive Plan. If a 100-year flood zone is
1021 present on-site, as defined by the federal insurance rate maps (FIRM), the Planning and Development
1022 Services Director shall recommend that development and related investment be directed away from this
1023 flood zone or other mitigation measures as deemed appropriate.

1024 k. *Post-approval stage.*

- 1025 a. *Construction commencement.* The developer may elect to commence site development of the
1026 subdivision after the Preliminary Plat and engineering construction plan development order has been
1027 issued. If the developer elects to commence site development prior to or concurrently with final plat
1028 approval, he/she shall notify in writing the Planning and Development Services Director or his/her
1029 designee of that intention. The Planning and Development Services Director or his/her designee
1030 shall then issue a development permit authorizing the commencement of site development
1031 consistent with the approved engineering construction plans, provided the approval process for all
1032 other permits adheres to applicable local, regional, state, and federal laws.
- 1033 c. *Validity.* The preliminary plat shall remain valid until the subdivision or any part thereof is vacated in
1034 accordance with the laws of the City of Deltona and the State of Florida.

1035 **Sec. 74-20. Final Plats.**

- 1036 (a) *Applicability.* Requirements for platting in the City shall be in accordance with Chapter 177, Florida Statutes.
1037 No improvements, including streets, shall be accepted and maintained by the City unless and until the final
1038 plat (FPL) has been approved by the City Commission, and has been duly recorded by the Volusia County
1039 Clerk of the Circuit Court. The developer shall submit an application for a final plat only for that portion of
1040 the property with an approved preliminary plat, where applicable and required by this LDC.
- 1041 (b) *Review Procedure.*
- 1042 (1) *Pre-application Meeting.* A pre-application meeting on all FPL applications is required prior to application
1043 submittal.
- 1044 (2) *Application Submittal.* All applications for FPLs shall be submitted on the official form provided by the
1045 City and accompanied by all pertinent information, plans and plat as set forth on the form. The Applicant
1046 shall submit an appropriate number of copies, as determined by the Planning and Development Services
1047 Director or his/her designee at the pre-application meeting. All final plats shall be prepared on standard
1048 sheet sizes as required by F.S. Chapter 177, as amended. An applicant shall furnish the City with those
1049 documents necessary to evidence and ensure compliance with requirements, standards, restrictions or
1050 conditions of this chapter as requested by the city. These documents shall include, but are not limited to,
1051 bonds or other security, agreements, restrictive covenants, deeds and easements, standards, restrictions
1052 or conditions.
- 1053 (3) *Application Review.* Final Plat applications shall be reviewed by Planning and Development Services
1054 Staff and DRC in consultation with other City departments for consistency with this Land Development
1055 Code, Florida Statutes and all other applicable regulations. The submittals shall be consistent with the
1056 issued preliminary plat, where applicable. If the FPL is recommended for approval with conditions, the
1057 Planning and Development Services Director or his/her designee may request that the applicant submit
1058 a revised application incorporating the conditions of approval prior to scheduling the final plat application
1059 for public hearing(s).
1060
- 1061 (4) *Public Hearing Notification Requirements.* Notice shall be provided as set forth within Section 74-25 for
1062 both the Planning and Zoning Board and City Commission public hearings, where applicable.
- 1063 (5) *Public Hearings.* All applications for Final Plats shall be considered by the City Commission at a public
1064 hearing. All applications for Final Plats for subdivisions containing 200 lots or more shall also require a
1065 public hearing before the Planning and Zoning Board prior to final action by the City Commission.
- 1066 (6) *Action.* The City Commission shall take final action on all Final Plat applications. The Commission or
1067 Planning shall approve or deny the application. If the City Commission determines that adequate public
1068 facilities required under this chapter are not available, but are planned to become available in the future,
1069 they may:
1070
- 1071 a. Defer action until adequate public facilities are available;
1072 b. Approve the application subject to the condition that no building permit shall be issued until
1073 adequate public facilities are available;
1074 c. Approve the application subject to the condition that no certificate of occupancy be issued
1075 until adequate public facilities are available; or

- d. Approve the application subject to the condition that the developer enter into a public services and facilities agreement pursuant to this chapter to ensure that adequate public facilities are available at the time the impacts of the development occur.

(7) *Post-approval stage.*

a. *Recordation.* Plats shall be recorded in the following manner:

- iii. Plat dedications. All streets, alleys, easements, rights-of-way, parks, school sites and public areas shown on an accepted and recorded plat, unless otherwise stated, shall be deemed to have been dedicated or granted, as appropriate, to the public for use by the public. The recorded plat shall constitute, unless otherwise stated, an acceptance of said offer to dedicate, grant or reserve. Reservations must be clearly indicated as such, and must include the word "reservation".
- iv. Following City Commission approval, the developer/applicant shall submit the original mylar plat signed by the developer/applicant, and one paper copy of the approved plat to the Planning and Development Services Director or his/her designee. The applicant shall provide to the city an appropriate electronic version of the plat in a format approved by the Planning and Development Services Director or his/her designee. The developer/applicant shall be required to comply with all applicable provisions of F.S. Ch. 177, City Code, and any related conditions of approval by the City of Deltona. The developer/applicant shall record the final plat at Volusia County Clerk of the Circuit Court within 20 working days following City Commission approval of the final plat.
- v. The Planning and Development Services Director shall sign the original mylar plat and arrange for the mylar plat to be signed by the mayor and city registered surveyor. The final plat, completely signed by all parties, shall be transmitted to the developer/applicant for processing and recordation at Volusia County Clerk of the Circuit Court.
 - a) The applicant will provide the city with two hard copies of the recorded plat. Note that the Volusia County Clerk of the Circuit Court will retain the original mylar and will require one mylar copy for their internal records.
 - b) Upon receipt of a copy of the recorded final plat, the Planning and Development Services Director or his/her designee will issue a final plat development order to the applicant that is consistent with section 106-26 of this chapter and other applicable provisions. In cases where related infrastructure has not been built or received final inspection, such infrastructure shall be bonded in accordance with section 96-76.
 - c) No plat of lands in the City subject to these regulations shall be recorded, whether as an independent instrument or by attachment to another instrument entitled to record, unless and until the final plat has been approved by the City Commission and all appropriate signatures have been affixed to the plat.

b. *Validity.* The final plat shall remain valid until the subdivision or any part thereof is vacated in accordance with the laws of the City of Deltona and the State of Florida.

Sec. 74-21. Vacations.

(a) *Applicability.* The City Commission, or their designees, may adopt resolutions vacating plats in whole or in part of recorded subdivisions in the city, including utility, drainage and right-of-way easements created through the platting process.

(b) *Review Procedure.*

- (1) *Pre-application Meeting.* A pre-application meeting on applications for vacations is not required.
- (2) *Application submittal.* All applications for vacations shall be submitted on the official form provided by the City and accompanied by all pertinent information required by this LDC. Before resolutions to vacate any plat either in whole or in part are entered by the City Commission, it must be shown that the persons making application for the vacation own the fee simple title to the whole or that part of the tract covered by the plat sought to be vacated, and it must be further shown that the vacation will not adversely affect

1124 the ownership or right of convenient access of persons owning other tracts or parts of the subdivision, or
1125 properties that are accessed through such subdivision.

1126 (3) *Application review.* The staff reviewing the proposed vacation shall consult with other City departments
1127 and agencies, and the DRC staff. The City shall consider if the vacation of a particular easement or right-
1128 of-way will serve the best interest of the public. The petitioner may offer an alternative or replacement
1129 easement. However, the reviewing entity is under no obligation to accept the offered alternative. If a
1130 Petition to Vacate is premised on the grant of a replacement easement, the Commission and/or Planning
1131 and Development Services Director will not take action on the Petition until the instrument necessary to
1132 grant the alternative real property interest has been accepted in form and content by the City Attorney,
1133 properly executed by the granting or conveying entity, and delivered to the Planning and Development
1134 Services Department to be held in trust pending the Commission's consideration of the requested
1135 vacation.

1136 (4) *Public Hearing Notification Requirements.* Notice shall be provided as set forth within Section 74-25 for
1137 both the Planning and Zoning Board and City Commission public hearings, where applicable. See also
1138 subsection (10) below regarding additional public notification requirements for vacations.

1139 (5) *Public Hearings.* All applications for vacation of rights-of-way, plats or portions thereof, shall be
1140 considered by the City Commission at a public hearing. All applications for vacation of easements are
1141 administratively approved and do not require public hearings.

1142 (6) *Action.* Final action on easement vacations shall be taken by the Planning and Development Services
1143 Director or his/her designee, after review by the DRC. Final action on all other vacations, including plats,
1144 portions thereof, or rights-of-way shall be taken by the City Commission following review by the Planning
1145 and Development Services Department and DRC.

1146 (5) *Validity.* Vacations shall remain valid in perpetuity.

1147 (c) *Other Applicable Provisions.*

1148 (1) Persons making application for vacation of plats, either in whole or in part shall give notice of their intention
1149 to apply to the City Commission to vacate the plat by publishing legal notice in a newspaper of general
1150 circulation in Volusia County in not less than two (2) weekly issues of the paper, and must attach to the
1151 petition for vacation and the proof of publication, together with certificates showing that all state and county
1152 taxes have been paid.

1153 (2) Resolution by the City Commission shall have the effect of vacating all streets and alleys which have not
1154 become highways necessary for use by the traveling public. A vacation shall not become effective until an
1155 original or a certified copy of the related resolution has been filed in the offices of the Volusia County Clerk
1156 of the Circuit Court and duly recorded in the public records of Volusia County.

1157 (3) The owner of any land subdivided into lots may record a plat for the purpose of showing the subject land
1158 as acreage. This plat and the procedure shall conform to the requirements of F.S. Chapters 163 and 177,
1159 except that:

1160 (a) No survey or certificate of any surveyor or engineer shall be required. However, the City Commission
1161 may require a survey of the exterior boundaries of the land and the placing of suitable monuments
1162 along the boundaries if it finds that the last preceding survey of record is faulty or inadequate or that
1163 insufficient monuments are in position along these boundaries.

1164 (b) No improvements shall be required except as may be necessary to provide equivalent access, as
1165 provided in this section.

1166 (c) No findings need be made for the suitability of the land or as to the provision of public facilities and
1167 services.

1168 **Sec. 74-22. Major Variances.**

1169 (a) *Applicability.* A Major Variance application from the terms of these LDC standards may only be granted when
1170 such Variance will not be contrary to the public interest and where, owing to special conditions, a literal

1171 enforcement of the provisions of the LDC standards would result in unnecessary hardship on the land. Such
1172 Variance shall not be granted if it has the effect of nullifying the intent and purpose of this LDC.

1173 (1) The Planning and Zoning Board shall have the authority to take action on Major Variance applications
1174 filed relating to the standards in this Section. At the discretion of the Board or Commission, a Major
1175 Variance may be required to go before the City Commission for final approval.

1176 (2) *General Limitations on Power to Grant Variances.*

1177 a. Under no circumstances shall a Variance be granted for a use not permitted in the zoning district
1178 involved, or any use expressly or by implication prohibited in the zoning district by the terms of this
1179 LDC.

1180 b. A Variance shall not be granted that has the effect of a Conditional Use to this LDC.

1181 c. Variances heard by the Planning and Zoning Board shall only be authorized for height, parking
1182 requirements, area and size of structures, size of yards and open spaces.

1183 d. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district,
1184 and no permitted use of lands, structures, or buildings in any other district shall be considered
1185 grounds for the granting of a Variance.

1186 (b) *Review procedure.*

1187 (1) Pre-application meeting. A pre-application meeting on all Major Variances is required.

1188 (2) *Application Submittal.* All applications for a Major Variance shall be submitted in writing to the City,
1189 along with the appropriate fee(s). A Major Variance may be proposed by:

1190 a. The City Commission (for city-owned property);

1191 b. Any City Department or other agency of the City with authorization from the Commission;
1192 and

1193 c. Any person other than those listed in a. or b. above; provided, however, that no person shall
1194 apply for a Rezoning of property (except as agent or attorney for an owner) which he or she
1195 does not own. The name(s) of the owner shall appear on each application and a signed and
1196 notarized authorization form must be provided. The application shall disclose full ownership.

1197 (2) *Application Sufficiency.* Applications for a Major Variance shall be accompanied by a clear statement
1198 and accounting that presents the applicant's purpose for the requested Variance. The statement shall
1199 include those facts that clarify the need for the Variance, the Variance application's context, and the
1200 consequences of the Variance. The application shall address how the Variance preserves the LDC's
1201 consistency with the Comprehensive Plan.

1202 (3) *Application Review.* The staff reviewing the proposed Major Variance shall consult with other City
1203 departments and agencies, and the DRC. The Staff and DRC shall consider the following during
1204 application review and prepare an official report and recommendation:

1205 a. That the Variance shall not be contrary to the public interest;

1206 b. That the Variance is required owing to special conditions peculiar to the property;

1207 c. That identifies the special conditions and circumstances that exist which are peculiar to the land,
1208 structures, or required improvements involved;

1209 d. That the special conditions are not the result of the actions of the applicant;

1210 e. That explains how the special conditions and circumstances do not result from the actions of the
1211 applicant;

1212 f. That a literal enforcement of the provisions of this LDC would result in unnecessary and undue
1213 hardship on the land;

1214 g. That explains or illustrates how a literal interpretation of the provisions of this LDC would deprive
1215 the applicant of reasonable use of the applicant's property;

- 1216 h. That explains why the granting of the Variance requested will not confer on the applicant any special
 1217 privilege that is denied by these regulations to other lands, structures, or required improvements
 1218 under similar conditions. No pre-existing conditions on neighboring lands, which are contrary to
 1219 these regulations, shall be considered grounds for the issuance of a Variance;
- 1220 i. That the Variance requested is the minimum Variance necessary to make any reasonable use of
 1221 the property;
- 1222 j. That, with respect to a right-of-way or improvement requirement, explains how such requirement
 1223 does not bear a reasonable relationship or rational nexus between the need for additional capital
 1224 facilities and the demands generated by the development along with other development within the
 1225 area; and
- 1226 k. That describes how the proposed Variance is determined to be consistent with the goals, objectives,
 1227 policies and guiding principles of the Comprehensive Plan.
- 1228 (4) *Public Hearing Notification Requirements.* Notice shall be provided as set forth within Section 74-25 for
 1229 the Planning and Zoning Board public hearing.
- 1230 (5) *Public Hearings.* All applications for a Major Variance shall be considered by the Planning and Zoning
 1231 Board as applicable.
- 1232 (6) *Action.* The Planning and Zoning Board shall take final action on eligible Major Variance applications
 1233 from the terms of this LDC related to zoning district use standards. In granting any Variance, the review
 1234 authority may prescribe appropriate stipulations and safeguards in conformity with this LDC. The
 1235 Planning and Zoning Board shall approve, approve with conditions or stipulations, or deny the
 1236 application.
- 1237 a. Restrictions, stipulations, and safeguards attached to a Variance may include but are not limited to
 1238 those necessary to protect adjacent or nearby land owners from any deleterious effects from the
 1239 full impact of any permitted uses and stipulations requiring that certain aspects of development take
 1240 place in accordance with a binding site plan, where applicable.
- 1241 b. All stipulations shall be recorded by the Volusia County Clerk of Courts.
- 1242 c. Binding Nature of Approval. All terms, conditions, safeguards, and stipulations made at the time of
 1243 approval for any district subject to this section shall be binding upon the applicant or any successors
 1244 in interest.
- 1245 (7) *Validity.* Major Variance approvals shall remain in effect for one (1) year following approval, unless a
 1246 longer duration is granted as part of the approval. Within this timeframe a building permit must be
 1247 obtained to vest the approval.
- 1248 (9) *Amendments.* Any changes or expansion of an approved Major Variance will require filing of a new
 1249 Conditional Use application.
- 1250 (10) *Other Applicable Provisions.*
- 1251 a. Limitations on the Refiling of a Major Variance application. Whenever the Planning and Zoning Board
 1252 has taken final action on a Major Variance application for property, whether approved or denied, the City
 1253 shall not accept any further application for any Variance of any part of or all of the same property for a
 1254 period of 12 months from the date of such action, or the date of final judicial review of such action,
 1255 whichever is later.
- 1256 b. Violations. Violations of restrictions, stipulations, or safeguards contained in a Variance granted by the
 1257 Planning and Zoning Board shall constitute a violation of this LDC.

1258 **Sec. 74-23 Minor Variances.**

- 1259 (a) *Applicability* In certain circumstances, the Director of Planning and Development Services is authorized to
 1260 administratively approve variances from the Sections noted below when it is found that such request would
 1261 not be contrary to the health, safety, and welfare of the City of Deltona and the request is consistent with
 1262 the standards provided for each situation as shown below.

- 1263 (b) The Planning Director has the authority to grant a variance to the following standards, with or without
1264 conditions, if and only if the applicant demonstrates that all of the standards of Sec 110-1103 (a)(1)(d) are
1265 met:
- 1266 i. Reduction of front or rear yard non-shoreline setback requirements by up to twenty (20) percent;
1267 and reduction of non-shoreline side yard setback requirements by up to ten (10) percent.
 - 1268 ii. Reduction in the off-street parking requirements of Section 110-828 by no more than ten (10)
1269 percent.
 - 1270 iii. Reduction of the landscape buffer yard width requirements of Section 110-808 by no more than
1271 twenty (20) percent.
 - 1272 iv. Modification to signage, where increase of sign face area does not exceed 50% of this LDC and/or
1273 reduction of setbacks does not exceed 25%.
 - 1274 v. Modification of fence requirements.
 - 1275 vi. The Planning Director may deem appropriate to require those variances qualifying as minor to be
1276 heard by the Planning and Zoning Board depending upon the specifics of the request. in keeping
1277 with the purpose and intent of the zoning district in which the development is located.
- 1278 (c) All other procedures and review criteria set forth in 74-22 for Major Variances apply to Minor Variances,
1279 except that a public hearing before the Planning and Zoning Board is not required.
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1281 **Sec. 74-24. Zoning and land development fees.**

1282

1283 This section sets forth fees required for review and approval of land development activities pursuant to the
1284 Land Development Code. The fee schedule shall include all necessary expenses for the conduct of the municipal
1285 government and shall be established by resolution of the City Commission. Upon an application submittal for zoning
1286 or land development, the Planning and Development Services Director or his/her designee will determine all
1287 designated fees which shall be applicable based on the services required to review each application. All such fees
1288 must be submitted in full to the city concurrently with each application. Failure to submit the required fee shall render
1289 the application incomplete.

1290

1291 Fees shall be required for any zoning and land development activity as listed under the following designations,
1292 including and not limited to: Land development review; extensions; meetings; letters; change of grade; development
1293 orders; appeals; incomplete submittals and re-submittals; site plan reviews; development plan reviews; plat reviews;
1294 lot elevation variances; certificate of concurrency; easement and right-of-way use or vacation; combination of lots;
1295 modification requests; tree removal; model sales center; pre-construction wetland alteration permit; stormwater
1296 permit; temporary sign permit; annual sign renewal permit; special event permit; additional inspections and re-
1297 inspections; annexations; conditional uses; zoning variances; rezoning; future land use amendments; planned unit
1298 developments; engineering permits; escrow accounts and miscellaneous administrative charges.

1299

1300 Some land development applications may require associated consulting services and fees. In such cases, the
1301 city will hire peer professionals with expertise in associated development related disciplines to assist in the review
1302 and provide recommendations regarding land development applications. Consultant activities include, but are not
1303 limited to, traffic planning, engineering, surveying, design, environmental, etc. Consultant costs will be borne by the
1304 applicant. The hiring and payment of a consultant will be conducted consistent with applicable city procurement
1305 processes.

1306

1307 **Sec. 74-25. Public notice.**

1308

- 1309 (a) "*Public notice*" as used in connection with the phrase "public hearing" or "hearing with due public notice" refers
1310 to applications and appeals in which there is to be a public hearing of the City Commission or of the Planning
1311 and Zoning Board as provided for in this section:
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- (1) *Legal notice (newspaper publication).*
 - a. The publication of notice with the following information: day, time, place and purpose, place or places within the City where the change may be inspected by the public, and that interested parties may appear at the meeting and be heard with respect to the proposed change.
 - b. Said notice shall be published at least once in a newspaper of general circulation in the area at least ten days prior to the date of such public hearing, unless a longer notice period is required by statute for the type of application to be heard. Notices published in local newspapers shall meet or exceed the minimum requirements of state law as required by F.S. § 166.041, and F.S. Ch. 163 as they may be amended from time to time.

- (2) *Individual notice (certified mailing).*
 - a. For applications affecting less than five percent of the total land area of the City, notices setting forth the time, day, place and purpose of the hearing shall be mailed, by certified U.S. mail, at least ten days prior to the date of the Planning and Zoning Board public hearing by the City to the last known address of the owners of the property involved, if the applicant is not the owner of the property involved, as well as, to the owners of property within 300 feet of the property lines of the property involved, all as determined by reference to the latest records published by the Volusia County Property Appraiser absent information as to ownership to the contrary.
 - b. It is the intent of this provision that only one mailing is required to be sent to an owner of property within 300 feet of the property lines of the property involved; and that notice shall contain the time, day, and place of all public hearing(s).
 - c. For amendments initiated by the City, the required notice shall be sent by certified U.S. mail and a record of those to whom the notice was sent shall be maintained with the application file by the Planning and Zoning Services Department.

- (3) *Posted notice (posted sign).*
 - a. For applications affecting less than five percent of the total land area of the city that the owner or his or her duly authorized agent, or for applications initiated by the city, the applicant or the duly authorized agent shall perform said posting at least 10 days prior to the date of such public hearing, the signs provided by the enforcement official.
 - b. For purposes of posting property that is the subject of a city-initiated amendment, the notice shall be posted on public right-of-way in front of the property affected by the proposed amendment, but shall not be placed so as to obstruct the vision of drivers at any intersection, including driveway intersections.
 - c. The applicant or the duly authorized agent shall not be required to place posted notices on or along any property lines that abut private streets or easements, but shall limit postings to streets maintained by the city, Volusia County, or the Florida Department of Transportation. Postings shall not be required when the public agency responsible for the affected street right-of-way refuses to permit the posting within its right-of-way. However, the responsible City agency shall not prohibit the posting of notice on rights-of-way maintained by the City.
 - d. The sign or signs provided by the Planning and Zoning Services Department shall be printed on a brightly-colored, easily recognizable, weather-resistant material of a minimum size of 22 inches in width and 28 inches in height.
 - e. One sign shall be posted for every 200 feet of front lot line. Corner properties shall have signs posted on both front/street side lot lines.
 - f. Each sign shall be placed in a location along the lot line that provides the greatest visibility from the adjacent street or road.
 - g. The posted sign or signs shall remain in place until the completion of the public hearing of the City Commission and shall be removed by the applicant within ten days following the conclusion of the last public hearing. Failure to remove the sign or signs after ten days following the last noticed public hearing shall be a violation of this Code, and shall be enforceable as provided in Chapter 2, Code of Ordinances of the City of Deltona, Florida, as it may be amended from time to time.

- (4) Citizen awareness and participation meetings.
 - a. *Applicability.*

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1. The following requirements apply in addition to any other notice provisions required elsewhere in this Code. The administrative official may require that, based upon the needs of the abutting communities or the City as a result of generally accepted land use planning practices and principles or to ensure full public participation; this potential requirement shall apply to development applications for developments such as the following which list is provided for illustrative purposes only and not as a limitation of the requirement:
 - 1374 a. Planned Unit Developments.
 - 1375 b. Variances involving nonresidential uses.
 - 1376 c. Subdivision Plans.
 - 1377 d. Rezoning.
 - 1378 e. Amendments to the Future Land Use Map.
 - 1379 f. Other land use or development application provisions required elsewhere in this Code.
 - 1380 2. These requirements apply in addition to any other notice provisions required elsewhere in this
1381 Code.
 - 1382 3. The requirement of a citizen participation meeting is not intended to produce complete
1383 consensus on all applications, but to encourage applicants to be good neighbors and to allow
1384 for informed decision making and to maximize, to the extent practicable, public participation in
1385 the planning, and land use processes of the City.
- 1386 b. *Purpose.* The purpose of the requirement is, at a minimum, to:
- 1387 1. Further implement the public participation provisions of the city's Comprehensive Plan.
 - 1388 2. Ensure that applicants pursue early and effective citizen participation in conjunction with their
1389 applications, allowing them to understand and mitigate any real or perceived impacts their
1390 application may have on the community.
 - 1391 3. Ensure that citizens and property owners are provided with an adequate opportunity to learn
1392 about applications that may affect them and to work with applicants to resolve concerns at an
1393 early stage of the process.
 - 1394 4. Facilitate ongoing communication between the applicant, interested citizens, and potentially
1395 affected property owners, city staff, and elected officials throughout the application review
1396 process.
- 1397 c. *Submittal requirements.* The applicant may submit a citizen awareness and participation plan and
1398 begin implementation before formal application at the applicant's discretion. This shall not occur
1399 until after the required pre-application meeting or consultation with the planning department has
1400 occurred and any applicable fees have been paid by the applicant.
- 1401 d. *Meeting requirements.* At a minimum the citizen awareness and participation meeting shall include
1402 the following information:
- 1403 1. Identification of the residents, property owners, interested parties, political jurisdictions, and
1404 public agencies that may be affected by the proposed development and should be given notice
1405 of the meeting.
 - 1406 2. Description of how the notification will be provided to those interested in and potentially affected
1407 by the proposed development.
 - 1408 3. Description of how information will be provided to those interested and potentially affected
1409 relative to the substance of the change, amendment, or proposed development for which
1410 approval is sought.
 - 1411 4. Description of how, and with whom, an opportunity will be provided to those interested or
1412 potentially affected to discuss the proposal and express any concerns, issues, or problems
1413 before the first public hearing.

- 1414 5. The applicant's schedule for completion of the meeting.
- 1415 6. Description of how the applicant will keep city officials informed on the status of citizen
- 1416 participation efforts.
- 1417 e. *Target area for citizen notification.* The level of citizen interest and area of involvement will vary
- 1418 depending on the nature of the application and the location of the proposed development. The
- 1419 target area for early notification will be determined by the administrative official. At a minimum, the
- 1420 target area shall include the following:
- 1421 1. Property owners within 300 feet of the property proposed for development.
- 1422 2. The officers of any homeowner's association or registered neighborhood group within the
- 1423 public notice area as outlined in this section or that may be impacted by the proposed
- 1424 development.
- 1425 3. Any person or entity that may be impacted by the proposed development as determined by the
- 1426 administrative official based upon sound and generally accepted land use planning practices
- 1427 and principles.
- 1428 4. Other interested parties who have requested to be placed on an interested party's notification
- 1429 list maintained by the city.
- 1430 5. A determination to provide notice in the context of the meeting process shall not grant standing
- 1431 to any person for the purposes of subsequent legal challenges or appeals.
- 1432 f. *Citizen awareness and participation report.* When a citizen awareness and participation meeting is
- 1433 required, the applicant shall provide a written report on the results of the citizen participation efforts
- 1434 before the publication of the notice of public hearing. This report will be attached to the city staff's
- 1435 public hearing report. The report shall, at a minimum, contain the following information:
- 1436 1. Details of techniques used to involve interested and potentially affected parties, including:
- 1437 a. Dates and locations of all meetings where citizens were invited to discuss the applicant's
- 1438 proposal.
- 1439 b. Content, dates mailed, and numbers of mailings, including letters, meeting notices,
- 1440 newsletters, and other publications.
- 1441 c. Location of residents, property owners, and interested parties who received notices,
- 1442 newsletters, or other written materials.
- 1443 d. The number and names of people who participated in the process.
- 1444 2. A summary of concerns, issues, and problems expressed during the process and proposed
- 1445 methods of resolution, including by way of example only:
- 1446 a. The substance of the concerns, issues, and problems.
- 1447 b. How the applicant has addressed or intends to address these concerns, issues, and
- 1448 problems.
- 1449 c. The concerns, issues, and problems the applicant is unwilling or unable to address and the
- 1450 basis and rationale of the applicant regarding each issue that has not been addressed.
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- 1453 (b) Except for appeals, as otherwise provided for in this Section, the City Commission shall provide for a public
- 1454 notice, as used in connection with the phrase "public hearing" or "hearing with due public notice", for
- 1455 applications involving five percent or more of the land area of the City in the manner, as provided in F.S. §
- 1456 166.041, as it may be amended from time to time. For plan amendments and Development Agreements
- 1457 affecting five percent or more of the total land area of the City, notice shall be provided, as required by F.S.
- 1458 Ch. 163 as it may be amended from time to time.
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1460 (c) When an agenda item for a public hearing that was duly advertised and noticed in accordance with this Section
1461 is continued to a date certain, no further notice or advertisement shall be required. When a hearing is tabled
1462 or postponed without a date certain, the hearing and any subsequent hearing that may have been advertised
1463 and noticed shall be re-advertised and re-noticed in accordance with the requirements of this Section.
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1465 **Secs. 74-26—74-50. Reserved.**
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1467 ***ARTICLE III. RESERVED***
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1469 **Secs. 74-51—74-68. Reserved.**
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