

# City of South Daytona

## Office of the City Manager

1672 S. Ridgewood Avenue • South Daytona, FL 32119 • 386/322-3014



### MEMORANDUM

To: James L. Gillis, Jr., City Manager

From: Josh McEnany, Economic Development Director

Re: Consideration of Ordinance No. 2024-05 modifying the City Code of Ordinances and the City Land Development Code for a proposed Ordinance regarding the Planning and Appeals Board. **Second and Final Reading. Public Hearing.**

Date: July 26, 2024

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The City Council approved the first reading of Ordinance No. 2024-05 on July 23, 2024.

The City has several boards which serve in an advisory capacity. The Planning and Appeals Board serves as the Local Planning Agency as defined in Florida Statute Chapter 163 as well as the Board of Appeals. Recent discussions with the City Attorney, members of the public, and members of various boards have prompted a review of this important board. During this review staff has taken the opportunity to provide consistency throughout both the Code of Ordinances and Land Development Code, remove outdated references, clarify the role of the board, Development Review Committee, and the processes followed for city planning and appeal functions.

The proposed changes to the Board include changing the name from the Planning and Appeals Board (PAB) to the Planning Advisory Board (PAB). In addition, the proposed Ordinance changes the decision-making authority for all variances from the PAB to the City Council. Variances will not be considered by the City Council unless the City Manager determines that all of the criteria for a variance request are met including the request not being a self-imposed hardship. The proposed Ordinance also changes the decision-making authority for all administrative appeals from the PAB to the City Council.

This clarification of our codes and the responsibilities of the PAB will help business owners, developers and residents navigate our approval processes faster. The revisions will also ensure that the PAB will remain as it was intended to be which is an advisory board to the City Council. As a result, staff is recommending approval of Ordinance No. 2024-05, attached, as written.

The Planning and Appeals Board recommended the City Council approve the proposed Ordinance at their regular meeting on July 17, 2024.

**ORDINANCE NO. 2024-05**

**AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING THE SOUTH DAYTONA LAND DEVELOPMENT CODE, ARTICLE II. DEFINITIONS, ARTICLE III. ADMINISTRATION AND ENFORCEMENT, ARTICLE IV. CONSISTENCY AND CONCURRENCY, ARTICLE V. ZONING REGULATIONS, ARTICLE VI. SUBDIVISION REQUIREMENTS, ARTICLE VII. ENGINEERING/ENVIRONMENTAL STANDARDS, AND ARTICLE VIII. GENERAL DESIGN STANDARDS; AMENDING THE SOUTH DAYTONA CODE OF ORDINANCES, CHAPTER 3.5 AMUSEMENTS AND ENTERTAINMENTS, CHAPTER 5 BUILDINGS, HOUSING AND STRUCTURAL REGULATIONS, CHAPTER 10.5 PARKS AND RECREATION, CHAPTER 12 PLANNING AND DEVELOPMENT, CHAPTER 14 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, CHAPTER 16 TAXATION, AND CHAPTER 20 WATER AND SEWER SERVICE; RENAMING THE LAND DEVELOPMENT REGULATION BOARD, PLANNING AND APPEALS BOARD, AND BOARD OF ADJUSTMENT AND APPEALS AS THE PLANNING ADVISORY BOARD (PAB); CLARIFYING AND REVISING THE ROLE OF THE PLANNING ADVISORY BOARD AS AN APPOINTED ADVISORY BOARD TO MAKE RECOMMENDATIONS TO THE CITY COUNCIL; REVISING PAB MEMBERSHIP CRITERIA AND TERMS OF OFFICE, CLARIFYING AND REVISING THE ROLES OF THE DEVELOPMENT REVIEW COMMITTEE, COMMUNITY DEVELOPMENT DIRECTOR, AND CITY MANAGER CONCERNING DEVELOPMENT DECISIONS; MAKING RELATED REVISIONS CONCERNING DEVELOPMENT DECISIONS AND PERMITS; AND PROVIDING FOR ADMINISTRATIVE ACTIONS, CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Council is empowered to establish, create, define and eliminate Boards which would serve them in an advisory capacity concerning matters of land development, adjustments, appeals, code enforcement and other general issues related to the operations and management of local government; and

**WHEREAS**, in June 2019, the City Council consolidated the Land Development Regulation Board (LDRB) and the Board of Adjustment and Appeals (BOAA); and

**WHEREAS**, staff has identified areas in the Code of Ordinances and Land Development Code which can be clarified and condensed to mirror State Statues, conform with best practices, and clarify existing practices; and

**WHEREAS**, the City Council of the City of South Daytona finds it in the best interest of its citizens to revise the Code of Ordinance and Land Development Code; and

**WHEREAS**, the amended ordinances and land development regulations relating to the modifications outlined below is set forth in Attachment "A" and incorporated herein by reference;

and

**WHEREAS**, the City of South Daytona Planning and Appeals Board recommended the amendments to the City of South Daytona Land Development Code as set forth in Attachment “A” at their regular meeting on July 17, 2024; and

**WHEREAS**, words with underlined (underlined) type shall constitute additions to the original text, and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA THAT:**

**SECTION 1. Recitals.** The above recitals are true and correct and are incorporated herein by reference.

**SECTION 2. Amendments.** The South Daytona Land Development Code, and the South Daytona Code of Ordinances, are amended as set forth in Attachment “A”.

**SECTION 3. Administrative Actions.** The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules.

**SECTION 4. Codification.** The provisions of this Ordinance, including its recitals, shall become and be made a part of the City of South Daytona, Florida Code of Ordinances and Land Development Code and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections other than Section 2 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**SECTION 5. Conflicts.** All ordinances, resolutions or administrative policies or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 6. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 7. Effective Date.** This Ordinance shall take effect immediately upon adoption.

**APPROVED** upon first reading on the 23<sup>rd</sup> day of July, 2024 at a regular meeting of the City Council of the City of South Daytona.

**APPROVED AND ADOPTED** upon second and final reading on the 13th day of August, 2024 at the regular meeting of the City of South Daytona City Council.

**CITY OF SOUTH DAYTONA:**

ATTEST:

\_\_\_\_\_  
James L. Gillis, Jr., City Manager

\_\_\_\_\_  
William C. Hall, Mayor

CERTIFIED AS TO FORM:

\_\_\_\_\_  
Wade C. Vose, City Attorney

## Land Development Code

### ARTICLE II. DEFINITIONS

#### [Sec. 2.2. Terms defined.]

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27. *Board of adjustments and appeals (BOAA)* shall mean the ~~board of adjustments and appeals~~ Planning Advisory Board (PAB) as provided in this ~~ordinance~~ Code.

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72. *Development review committee (DRC)* means the staff committee assigned the function of reviewing and ~~recommending~~ commenting on development ~~projects~~ orders in the city. Comments are provided to the Community Development Director (CDD) and City Manager who provides a recommendation to the Planning Advisory Board (PAB) and/or City Council.

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119. *Land development regulation board (LDRB)* ~~renamed the Planning Advisory Board (PAB)~~ means the duly appointed members of the ~~land development regulation board~~ Planning Advisory Board of the City of South Daytona, Florida, also referred to as the ~~LDRB~~ PAB, having the powers and duties set forth in this Code.

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223. *Variance* means a relaxation of the terms of this Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property that are not by action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. A variance is not the same as a special use or special exception. A variance is granted only by the ~~board of adjustments and appeals~~ City Council after recommendation from the City Manager except where the Code specifies otherwise.

### ARTICLE III. ADMINISTRATION AND ENFORCEMENT

#### Sec. 3.1. General provisions.

These regulations set forth the administrative and enforcement requirements for the staff and the city boards which are delegated review and approval authority as well as the application and review procedures required for obtaining development orders and permits. Also specified are the procedures for appealing decisions, seeking legislative actions, and processing amendments to the Code.

A. *South Daytona Boards.* The City Council of South Daytona is empowered to establish, create, define, and eliminate boards which would serve them in an advisory capacity and final decision making authority concerning matters of land development, adjustments, appeals, code enforcement, or other general issues related to the operations and management of local government. The following

general provisions related to the normal functioning of any board shall apply. Each board shall adopt rules of procedure governing its meetings.

- B. *Applications.* The city council shall direct the city manager, or designee, to compile and make available to the public such documentation as may be applicable to the conduct, presentation, appearance, cost, and review of matters before the various boards. The City Manager is responsible for ensuring applications satisfy all applicable codes and criteria before being placed on a board agenda. Applications shall not be presented to any board until the City Manager determines that all criteria as identified in the Land Development Code have been met.
- C. *Public hearings.* All meetings of the boards shall be advertised pursuant to the applicable city or state statutes, and shall be open and accessible to the public.

The public hearing shall at a minimum:

1. Comply with requirements of state law.
2. Review the staffs analysis of the proposed decision.
3. Review the summary of reports by other agencies, as applicable.
4. Permit any person to submit written recommendations and comments before or during the hearing, and request the board to specify when and if responses to those comments will be made.
5. Permit reasonable opportunity for interested persons to make oral statements.

Each agenda promulgated by the city shall state: "If a person(s) decide(s) to appeal any decision made by any board of the City of South Daytona, with respect to any matter considered at the public meeting or hearing described in the notice of or undertaken at the public meeting or hearing so described or held, they will need a record of the proceedings, and for such purpose, said person or party may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

- D. *Notification.* The city shall notify all property owners whose property adjoins the subject property. This shall include all properties separated from the subject property by a road, canal, easement, right-of-way, or similar barrier. Such notice shall include the date, time and place the public hearing will be held, as well as a clear and concise description of the proposed action and the reasons it is being requested. Such notification shall be made by regular mail unless otherwise required by law.
- E. *Posting of property.* The city shall cause every property subject to a public hearing to be posted with signs notifying the public of the type of action applied for, and the appropriate city department to contact for further information. Signs shall be

placed along all public roads frontages, with a minimum of one sign per 500 feet of frontage.

- F. Notice of public meeting. No official action shall be taken by the planning ~~and appeals advisory~~ board until after public notice of the meeting. Notice of the public meeting shall be published in a newspaper of general circulation within South Daytona at least ten days prior to the meeting. Notice of the meeting shall also be posted in the lobby of the City Hall; such posting to be conspicuous and clearly written.
- G. *Application stays all work.* An application for which a hearing is to be scheduled or is pending before any board or the city council stays all work on such project for which the application is to be considered, unless permission is granted in writing by the community development director for circumstances or activities unrelated to the materials for which the application is submitted.

### **Sec. 3.2. Planning ~~and appeals~~ Advisory ~~b~~Board.**

- A. *Establishment.* There is hereby created a ~~planning and appeals board~~ Planning Advisory Board (PAB) which shall serve in an advisory capacity to the South Daytona City Council ~~and shall make final determinations for certain issues.~~ It shall issue recommendations on land use, zoning, land development regulations, general community development policies and such other matters as may be delegated to it by the city council. The PAB shall serve as the city's designated local planning agency as defined in F.S. chapter 163. ~~The PAB shall make final determinations of appeals of orders of administrative officials in the enforcement of any provision of the Land Development Code, variances and Fair Housing Act accommodations requests. Further, the~~ The PAB is hereby codesignated and created as the design review board, which shall ~~make final determinations~~ make recommendations on ~~of~~ appeals of orders of administrative officials in the enforcement of Section 8.5 (Residential Design Requirements) in the manner provided in Section 3.2(I)(2)(a). ~~Further, the PAB shall review Fair Housing accommodations requests if necessary.~~
- B. *Membership.* Any individual who has his or her homestead residence within the corporate limits of the City of South Daytona may be appointed to the PAB, ~~except that one individual who does not own a residence in the city may be appointed as long as said individual meets the requirement of subsection (5) below. To assure a diverse membership on the PAB, the city council should, when reasonably possible, have a PAB with at least one member from each of the following areas:~~
  - 1. ~~An architect, landscape architect, engineer, or planner.~~
  - 2. ~~A person actively involved in community affairs and demonstrating an interest in advancing the quality of life in the city.~~
  - 3. ~~A person engaged in real estate sales or development.~~

~~4. A natural or environmental scientist.~~

~~5. A person owning a retail or service business located within the city limits; or an officer in a company of such a nature.~~

- C. *Appointment and terms.* The PAB shall consist of ~~seven~~ five members and two alternates appointed by the city council to serve at their pleasure and may be removed without cause. No city elected official or city employee shall serve on the PAB. Members shall be appointed for ~~overlapping staggered~~ staggered three-year terms or thereafter until their successors are appointed. ~~Alternate members shall serve a term of one year.~~ Any vacancy occurring during the unexpired term of office of any member shall be filled by the city council for the remainder of the term.

A member of the PAB shall immediately forfeit his appointment if (s)he:

1. Lacks at any time during his term of appointment, any qualifications of the appointment as prescribed by Charter or law; or
2. Violates any express prohibition of the Charter or law; or
3. Is convicted, pleads guilty or no contest of a felony, or misdemeanor involving moral turpitude; or
4. Has unexcused absences for two successive meetings; or three unexcused absences within a 12-month period; or requires more than three excused absences within a 12-month period.

- D. *Officers.* The PAB shall elect a chairman and vice-chairman from among its members. A recording secretary shall be provided by the city. The terms of all officers shall be for one year, each having eligibility for re-election or reappointment. The PAB shall adopt such other rules of procedure as necessary for the transaction of its business and shall keep a record of its resolutions, transactions, finding, determinations, and recommendations, which record shall be a public record available for review by any citizen upon request. Meetings of the PAB shall be held as set out in the PAB Rules of Procedure.

- E. *Compensation.* Members shall serve without compensation, ~~but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the city council or as otherwise provided by law.~~

- F. *Appropriations, fees and other income.* ~~The city council may appropriate such funds as it may see fit for fees and expenses necessary in the conduct of the work of the board. The city council by action taken at any regular or special meeting of the council and recorded in the minutes of the meeting, may establish, and from time to time amend, a schedule of fees to be charged by the board. The board shall have the authority to expend all sums so appropriated and other sums made available for its use from fees and other sources for the purposes and activities for which it is created.~~



~~G. F. Counsel.~~ The city attorney or his/her designee shall be counsel to the PAB and shall assist city staff in preparation of cases to be considered by the board, as necessary. In the absence of the city attorney, the city council may appoint another attorney to act in this capacity.

~~H. G. Quorum and voting.~~ Four members present shall constitute a quorum for purposes of conducting a legal meeting. All members may vote, and a majority vote of those present constitutes ~~passage~~ a recommendation of an item before the PAB, unless otherwise prescribed by statute, Charter, or law.

~~I. H. Powers and duties.~~ The PAB shall serve in ~~both~~ an advisory capacity to the city council ~~and shall make final determinations on certain issues~~ as set forth below:

1. PAB, in its advisory capacity, shall:
  - a. Review and make recommendations to the city council regarding comprehensive plan elements and land development regulations required by the Comprehensive Planning Act and provide for continuing planning required by the Act, Chapter 163, and related rules promulgated by the Florida Department of Community Affairs.
  - b. Exercise such planning functions as might be delegated from time-to-time by the city council.
  - c. Perform such duties and responsibilities as may, from time-to-time, be delegated to it by the city council.
  - d. Hear, ~~decide~~, and make recommendations to the city council on requests for:
    - i. All rezoning, special uses, or special exceptions.
    - ii. All land use map and comprehensive plan amendments.
    - iii. Land development regulations or amendments thereto.
    - iv. Site plans and subdivision plats as herein prescribed.
    - v. Appeal of administrative orders.
    - vi. Appeals of orders of administrative officials in the enforcement of Section 8.5 (Residential Design Requirements) in the manner provided in Section 3.2(I)(2)(a).
  - e. Review and make recommendations on items presented to the ~~LDRB~~ PAB by city staff.
2. ~~PAB, in its capacity as a final decision maker, shall have the final authority to decide the following:~~
  - a. ~~Appeal of administrative orders: To hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any provision of the~~

~~Land Development Code. Such an appeal shall be made within 30 days after the order, requirement, decision, or determination is issued. The appeal shall be in the form prescribed by the rules of the PAB.~~

~~The administrative decision that is appealed shall be presumed correct and the party appealing the decision has the burden of proof to establish by a preponderance of evidence that the decision is not supported by or is inconsistent with the law or facts.~~

~~In exercising its powers, the PAB may, upon appeal and in conformity with provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by an administrative official in the enforcement of this Code, and may make any necessary order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is made.~~

~~*An appeal stays all work.* An appeal to the PAB stays all work on the premises unless the chief building official certifies that by reason of fact stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except as ordered by a court of competent jurisdiction.~~

- ~~b. *Variances:* To authorize upon appeal such variance from the terms of this Code as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of the Code would result in unnecessary and undue hardship.~~

~~In order to authorize any variance from the terms of this Code, the PAB must find that the following criteria are met:~~

- ~~i. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;~~
- ~~ii. That the special conditions and circumstances do not result from the actions of the applicant;~~
- ~~iii. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, buildings, or structures in the same zoning district;~~
- ~~iv. That literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Code and would work unnecessary and undue hardship on the applicant;~~
- ~~v. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;~~

~~vi. That the granting of the variance will be in harmony with the general intent and purpose of the Code and that such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.~~

~~In granting a variance, the PAB may prescribe appropriate conditions and safeguards in conformity with this article and any code enacted under its authority. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. The PAB may prescribe a reasonable time limit within which the action for which the variance is required shall begin or be completed or both. However, unless otherwise prescribed by the PAB, a variance for which construction has not commenced pursuant thereto within 365 days of its issuance shall become void unless extended or re-approved by the PAB. Lapse of a variance by the passage of time shall not preclude subsequent application for variance.~~

~~Under no circumstances shall the PAB grant a variance to permit a use not generally or by special conditions permitted in the zoning district involved, or any use expressly or by implication prohibited by the terms of this Code in the zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.~~

~~c. *Evaluation of request for accommodation under the Fair Housing Act.*~~

~~i. A request may be made by the property owner or authorized representative for a request for an accommodation from the city's rules, policy, practices or service to allow a handicapped person or persons to have equal opportunity to use and enjoy a dwelling. The request shall be on an approved form issued by the city and must contain the following:~~

~~(a) Proof of ownership of the property which the request is being made or authorization from the property owner.~~

~~(b) Specifically identify the rules, policies, practices or services from which relief is being requested.~~

~~(c) Identify the nature of the disability of the occupants of the dwelling.~~

~~(d) Outline the minimum relief that is necessary to allow a handicapped person to use and enjoy the dwelling.~~

- ~~(e) Describe in detail how the requested relief is necessary to allow a person with the above-identified disability to be able to reasonably use and enjoy the dwelling.~~
          - ~~(f) Access must be granted to the necessary city employees to inspect the dwelling.~~
        - ii. The PAB shall evaluate all necessary criteria, facts, rules, laws, etc., to make a determination as to whether the requested accommodation is reasonable, including, but not limited to:
          - ~~(a) The policies and objectives of the city's comprehensive plan including the future land use designation of the property in question.~~
          - ~~(b) The permitted uses, conditional uses and special exceptions allowed for the zoning designation of the property in question.~~
          - ~~(c) The surrounding neighborhood, including zoning and future land use designations of the surrounding area.~~
          - ~~(d) The capacity of existing city utilities and infrastructures to accommodate the requested use.~~
          - ~~(e) Existing traffic patterns and traffic problems in the area that currently exist or may become a problem if the requested relief was granted.~~
          - ~~(f) Potential for noise, dust or other impacts to the neighborhood.~~
          - ~~(g) Ability of the existing dwelling to accommodate the requested variation, including bedrooms, bathrooms, outside parking and existing compliance with current building codes to determine the existence of any life and safety issues.~~
          - ~~(h) The existence of any current code violations.~~
        - d. *Review of final decisions of the PAB.* Any person affected by any final decision of the PAB, who wishes to appeal that decision may seek judicial review as provided by Florida Statutes.
- J. *Application procedure.* The director of the department of community development (CDD) is hereby designated as the official responsible for administering, enforcing and processing applications required under this part. In all respects, the procedures outlined herein are supplemental to state law requirements.

The city council or any person, board, or agency of the city may apply to the city to amend this Code, or comprehensive plan, or to submit application for development orders for rezonings, special exceptions, special uses, subdivision plats, concurrency determinations, etc., as defined herein.

All applications for subdivision plats which require PAB ~~approval~~ review and recommendation shall be first reviewed by the development review committee (DRC) as defined in section 3.4(C). ~~Upon recommendation of~~ The DRC shall provide comments to the Community Development Director (CDD) who will make a recommendation to the PAB. ~~The CDD shall schedule a public hearing before the board on each application only after ensuring all requirements of the code are met and providing a written recommendation to the PAB. Although the recommendation of the PAB is not binding,~~ the PAB shall thereafter submit to the city council, through the CDD, a written recommendation which:

1. For changes to codes, zoning regulations and the future land use map or the comprehensive plan:
    - a. Identifies any provisions of the Code, Comprehensive Plan or other law relating to the proposed change and describes how the proposal relates to them.
    - b. States factual and policy considerations pertaining to the recommendation.
    - c. Includes the written comments, if any, received from the ~~DRC~~ CDD.
  2. For rezonings, special uses, special exceptions, and subdivision plats:
    - a. Statements of the applicable criteria and standards against which the proposal was tested.
    - b. Findings of fact which established compliance or noncompliance with applicable criteria and standards of this Code.
    - c. Reasons for ~~conclusions~~ their recommendation to approve, conditionally approve or deny.
- K. *Criteria for review.* The PAB and city council, in their deliberations on matters of development orders, shall make findings of fact based upon the following criteria:
1. That the use(s) of property is (are) consistent with the land development regulations and comprehensive plan.
  2. That the use(s) is (are) compatible with the adjacent existing or planned uses.
  3. That the use provides adequate ingress/egress, parking, open space, and other amenities for the benefit of the users.
  4. That the use does not impair rights of other properties to light, air, sunlight, or other natural phenomena.
  5. That the project meets or exceeds tests for concurrency management.

Recommendations from the CDD and PAB are not binding. The City Council will be the final decision-making authority. The PAB and city council shall each make verbal and written findings based upon the above criteria, which shall be made a part of the

written proceedings from each public hearing or meeting where the development issue was recommended or approved.

- L. *Actions on applications.* Public hearings shall be noticed and conducted as referenced in section 3.1.
1. *Advisory action by the PAB.* The PAB shall consider and make recommendation to the city council concerning each matter under its purview, and may recommend approval ~~approve~~, ~~approve~~ approval with conditions (if applicable) or ~~deny denial of~~ the request during hearings open to the public. PAB public hearings shall provide interested parties an opportunity to receive details on the application and provide input.
  2. *Action by city council.* Upon receipt of the PAB's written recommendations, the city council shall, at a duly advertised meeting, approve, approve with conditions (as applicable), or disapprove the ~~request recommendations of the PAB~~. Before taking such action as it may deem advisable, the city council shall consider the PAB's recommendations on each proposed action. If no recommendation is received from the PAB within 45 days after its final public hearing, the proposed amendment shall be deemed to have been recommended for approval ~~approved~~ by the PAB. In the event of denial of any zoning change by the city council, subsequent application may not be made for similar zoning on the same parcel of property for a period of one year from the date of the denial by the city council, unless specifically authorized by that body.
  3. ~~*Final action by PAB.* The PAB shall take testimony and review all documentation presented during the hearing and shall consider such evidence and render a final decision based on the criteria outlined herein.~~

### **Sec. 3.3. Reserved.**

### **Sec. 3.4. Department of community development.**

The department of community development may consist of the planning, community development, building, code enforcement, and local business tax receipt divisions. Any other division whose responsibility involves issues of land development or redevelopment, as may be created in the future, may fall under the purview of this department at the discretion of the city manager. The city manager may also assign, modify, or remove divisions from this department as he may so choose in order to effect the efficient operation of city government.

- A. *Community development director (CDD).* The city manager will select a department head (CDD), who will report directly to the city manager, and carry the title of director of the department. He shall serve as the administrative official in charge of the divisions falling under the department's jurisdiction. The CDD shall serve at the pleasure of the city manager.

- B. *Responsibilities and duties.* The director shall have the following responsibilities and duties:
1. Establish internal procedures for the operations of the divisions;
  2. Create and manage the yearly adopted budget for the divisions;
  3. Implement plans, programs, projects as assigned or approved which will provide for the sound, orderly growth of South Daytona;
  4. Provide staff support to the ~~land development regulation board~~ Planning Advisory Board (PAB), code enforcement board or Special Master, board of adjustment and appeals, and city council on matters pertaining to development within the city;
  5. Serve as ~~chairman~~ coordinator of the development review committee (DRC); and liaison to other local, county, or state boards as may be assigned by the city manager;
  6. Administer the daily operations, staffing, and funding of the various divisions;
  7. Administer the comprehensive plan and land development regulations and other plans and codes as may be assigned;
  8. Review and execute development orders that do not have to be heard by a requisite board, or upon their hearing and approval, execute such documents as may be necessary to legally effect their implementation;
  9. Process building permits and certificates of occupancy in the absence of the chief building official;
  10. Hear and decide matters relating to concurrency management or interpretations of concurrency;
  11. Create plans and programs for the sound growth and economic development of the city for approval by the city manager and city council;
  12. Review and approve permits for signs, landscaping, or tree removal in conformance with the applicable sections of this Code;
  13. Other duties as may be assigned by the city manager.
- C. *Development review committee.* The purpose of Development Review Committee (DRC) is for various city departments to complete a technical review of proposed projects and provide written comments. Comments are provided to the Community Development Director (CDD) who shall render a recommendation to the Planning Advisory Board (PAB), City Council or other board or entity as required.
1. ~~Creation.~~ There is hereby created a development review committee (DRC) to be chaired by the director of the department of community development (CDD).
  2. ~~Membership.~~

a. ~~The voting membership of the DRC, in addition to the chairman, shall be composed of an employee appointed from each of the following departments, agencies, and entities:~~

- ~~1. Engineering and public works,~~
- ~~2. Police,~~
- ~~3. Fire,~~
- ~~4. Parks and recreation, and~~
- ~~5. any other personnel deemed necessary and appropriate by the director.~~

b. ~~Representatives of the following will be ex officio members of the committee: city manager, and city attorney.~~

3. ~~Powers, and duties.~~ The DRC shall:

1. The CDD shall:

- a. ~~Meet~~ Compile the comments of various city departments and ancillary agencies as required to review development proposals as prescribed in this Code;
- b. Make an initial determination regarding the consistency requirements described in this Code;
- c. Compile the comments of various city departments and ancillary agencies ~~Review applications referred to it by the director~~ on rezonings, conditional uses, site plans and subdivision plats, zoning or future land use map amendments, or other matters related to development in the city;
- d. Assist the ~~LDRB PAB~~ in drafting changes to the comprehensive plan and codes as may be necessary from time to time.

4. ~~2. Application and approvals.~~ The director shall ~~create an agenda and compile a package containing all application materials, support documents, and code citations as applicable for each application that the DRC will review. The Land Development Code for the City of South Daytona, as amended from time to time, shall serve as the minimum review criteria from which the DRC will provide comments, approve, approve with conditions, or deny an application for development order. Written notification shall be provided to the applicant of the meeting time and results of the DRC meeting where the application was heard. The director, upon receipt of the recommendations~~ comments from the DRC with the concurrence of the City Manager, shall approve, approve with conditions, or deny the application, or forward ~~the DRC's~~ his/her recommendation to the proper board, which is responsible for holding a public hearing on the matter, as applicable. The ~~DRC~~ CDD's recommendations shall



be made a part of the proceedings of the ~~LDRB~~ PAB and city council meetings where the application is to be heard.

5. *Criteria for DRC consideration.* For all issues coming before it, the DRC shall consider:
  - a. Characteristics of the site and surrounding area, including important natural and manmade features, the size and accessibility of the site, and surrounding land uses.
  - b. Whether the concurrency requirements of Article IV could be met if the development were built.
  - c. The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use area; the preservation of natural features; proposed parking areas; internal traffic circulation system, including trails; the approximate total ground coverage of paved areas and structures; and, types of water, sewage treatment, and drainage systems.
  - d. Conformity of the proposed development with the comprehensive plan, this Code and other applicable regulations.
  - e. Applicable review procedures and submission requirements.
  - f. Concerns and desires of surrounding landowners and other affected persons.
  - g. Other applicable factors and criteria prescribed by the comprehensive plan, this Code or other law.

The DRC shall support its ~~comments determinations~~ with written findings to the CDD. ~~The CDD shall render a recommendation. This determination shall be binding on the local government so long as the developer meets the deadlines prescribed herein for submitting preliminary and final plans.~~ The ~~committee~~ CDD may place reasonable conditions on the determination of concurrency necessary to ensure that the requirements of state law are met.

### **Sec. 3.5. Development orders.**

- A. *Generally.* No development activity may be undertaken unless the activity is authorized by a development permit/order. A development order, as defined in Chapter 163, Part II, F.S., is a zoning approval, subdivision plat, site plan, building permit or other authorization to develop land.
- B. *Prerequisites to issuance of development order.* A development order may not be issued unless the proposed development activity:
  1. Is shown on a development plan that has received final approval pursuant to this Code;

2. Conforms to the technical standards of this Code;
  3. Has submitted an application for and received approval for being consistent with the comprehensive plan and concurrency evaluations.
  4. There are no pending, unresolved code violations nor any unpaid liens in favor of the City on the property as per Chapter 2, Article II, Division III (Enforcement) of the South Daytona Code of Ordinances.
- C. *Exceptions to requirement of a development plan.* Notwithstanding the prohibition above, a development permit may be issued for the following development activities in the absence of an approved development plan so long as the proposed development complies with the development standards and technical requirements herein:
1. Development activity described in Article 1.6B.
  2. The construction or alteration of a one- or two-family dwelling on a lot in a valid recorded subdivision approved prior to the adoption of this Code. Compliance with the development standards in this Code is not required if in conflict with the previously approved plat.
  3. The alteration of an existing building or structure so long as neither its footprint nor its use is changed.
  4. The resurfacing of a ~~vehicle use area~~ parking lot that conforms to all requirements of this Code.
  5. Fences, hedges and walls.
  6. Permits not related to the principal structure.
- D. *Post-permit changes.* After a permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without obtaining a modification of the permit. A written record of the modification shall be entered upon the original permit and maintained in the files of the department.

### **Sec. 3.6. Development plan submittal requirements.**

In all cases other than those expressly exempted, a development plan will be required for any development within any zoning classification in the city, as well as for any area to be platted into two or more lots. ~~Table 1 indicates which requirements are optional or mandatory.~~

- A. *Application.* A completed application shall be signed by all owners, or their agent, of the property subject to the proposal. Signatures by parties other than the owner will be accepted only with notarized proof of authorization by the owners. In a case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation and embossed with the corporate seal.
- B. *Procedure for approval.*

1. For all applications for development order, a pre-application conference will be held with the director, or designee, to identify the rules, regulations, procedures and schedules which must be adhered to for the particular permit requested.
  2. After the pre-application conference, and any time within six months thereafter, the applicant may submit ten copies of the concept plan to the department. The director, or designee, shall review the plan to assure compliance with the requirements, consistency with the comprehensive plan and code, and confirm that it meets concurrency requirements. If approved for review, the DRC will review the plan. The director will issue a transmittal that the applicant can proceed with design of the final plan or may opt to submit a preliminary plan. If a final plan is not submitted within six months, the process may start over at the discretion of the director.
  3. Should the applicant choose to submit a preliminary plan, the director, or designee, will verify compliance with submittal requirements, and ~~within 30 days, schedule a meeting of the~~ provide to the DRC to review and ~~make a recommendation~~ offer comments on the development plan to the CDD. The CDD, with concurrence of the City Manager, will then make a recommendation ~~of~~ If the DRC has recommended approval or approval with conditions, ~~the director and~~ will advise the applicant in writing of the actions taken, and the applicant may proceed with preparation of the final development plans.
  4. For all development, upon receipt of final development plans, the director will verify that the submission is complete, and ~~will schedule the applicant for a~~ provide to the DRC to review and offer comments. ~~meeting.~~ The ~~DRC CDD~~ shall make a recommendation for final approval of the final development plan to the ~~director~~ City Manager. After review and final approval of the plan by the designated officials, the developer may request building permits for the approved development, or file the final plat for recording.
- C. *General plan requirements.* All development plans submitted pursuant to this Code shall conform to the following standards:
1. All plans shall be drawn to a scale of one inch equals 100 feet, unless the director determines that a different scale is sufficient or necessary for proper review of the proposal.
  2. The trim line sheet size shall be 24 inches by 36 inches. A three-quarter inch margin shall be provided on all sides except for the left binding side where a two-inch margin shall be provided.
  3. If multiple sheets are used, the sheet number and total number of sheets must be clearly indicated on each.
  4. The front cover sheet of each plan shall include:

- a. A general vicinity or location map drawn to scale (both stated and graphic) showing the position of the proposed development in the section(s), township and range, together with the principal roads, city limits, and other pertinent orientation information.
  - b. A complete legal description of the property.
  - c. The name, address and telephone number of the owner(s) of the property. Where a corporation or company is the owner of the property, the name and address of a contact person for the entity shall be shown.
  - d. Name, business address, and telephone number of those individuals responsible for the preparation of the drawing(s).
  - e. Each sheet shall contain a title block with the name of the development, stated and graphic scale, a north arrow, and date.
  - f. The plan shall show the boundaries of the property with a metes and bounds description reference to section, township and range, tied to a section or quarter-section or subdivision name and lot number(s)
  - g. The area of the property shown in square feet and acres.
5. Ten copies of the submittal shall be required.
  6. Unless a format is specifically called for below, the information required may be presented textually, graphically, or on a map, plan, aerial photograph, or by other means, whichever most clearly conveys the required information. It is the responsibility of the developer to submit the information in a form that allows ready determination of whether the requirements of this Code have been met.
- D. *Concept plan.* Each concept plan shall show:
1. *Existing conditions.*
    - a. The location of existing property or right-of-way lines for private and public property, streets, railroads, buildings, transmission lines, sewers, bridges, culverts, drain pipes, water mains, fire hydrants, and any public or private easements.
    - b. Any land rendered unusable for development purposes by deed restrictions or other legally enforceable limitations.
    - c. Contour lines at one-foot intervals or spot elevations on an appropriate grid.
    - d. All water courses, water bodies, floodplains, wetlands, important natural features and wildlife areas, soil types and vegetative cover.
    - e. The approximate location of environmentally sensitive zones.

- f. Existing land use/zoning district of the parcel or tract on all adjacent property.
2. *Proposed development activities and design.*
- a. The approximate location and intensity or density of the proposed development.
  - b. A general parking and circulation plan.
  - c. Points of ingress to and egress from the site vis-a-vis existing or planned public or private road rights-of-way, pedestrian ways, or bicycle paths, and proposed access points to existing or planned public transportation facilities.
  - d. Existing and proposed stormwater management systems on the site, and proposed linkage, if any, with existing or planned public water management systems.
  - e. Proposed location and sizing of potable water and wastewater facilities to serve the proposed development, including required improvements or extensions of existing off-site facilities.
  - f. Proposed open space areas on the development site and types of activities proposed to be permitted on them.
  - g. Lands to be dedicated or transferred to a public or private entity and the purpose for which the lands will be held and used.
  - h. A description of how the plan mitigates or avoids potential conflicts between land uses.
- E. *Final development plan.* A final development plan shall include the information required in a concept plan plus the following additional or more detailed information:
1. *Existing conditions.*
- a. A soils map of the site (existing U.S. Soil Conservation Service Maps are acceptable) or map indicating soil types using U.S.G.S. information.
  - b. A tree survey which includes the location and identity by common name of all protected trees. Groups of protected trees may be designated as "clusters" with the estimated total number noted. This information shall be summarized in tabular form on the plan.
  - c. Contour lines at one-foot intervals on spot elevations on an appropriate grid.
  - d. A detailed overall project area map showing existing hydrography and runoff patterns, and the size, location, topography, and land use of any off-site areas that drain onto, through, or from the project area.

- e. Existing surface water bodies, wetlands, streams and canals within the proposed development site, including seasonal high water-table elevations and attendant drainage areas for each.
  - f. A map showing the locations of any soil borings or percolation tests as may be required. Percolation tests representative of design conditions shall be performed if the stormwater management system will use swales, percolation (retention), or exfiltration (detention with filtration) designs at the discretion of the city engineer.
  - g. Location, names, and widths of existing and proposed streets, highways, easements, building lines, alleys, parks, and other public spaces, and similar facts regarding adjacent property.
  - h. The 100-year flood elevation, minimum required floor elevation and boundaries of the 100-year floodplain for all parts of the proposed development.
2. *Proposed development activities and design.*
- a. *Generally.*
    - [1] Area and percentage of total site area to be covered by impervious surface.
    - [2] Grading plans, specifically including perimeter grading.
  - b. *Buildings and other structures.*
    - [1] Building plan showing the location, dimensions, floor area, and proposed use of buildings.
    - [2] Building setback distances from property lines, abutting right-of-way centerlines, and all adjacent buildings and structures.
    - [3] Minimum floor elevations of buildings within any 100-year floodplain.
    - [4] The location, dimensions, type, composition, and intended use of all other structures.
  - c. *Utilities.*
    - [1] Proposed location and sizing of potable water and wastewater facilities to serve the proposed development, including required improvements or extensions of existing offsite facilities.
    - [2] The boundaries of proposed utility easements.
    - [3] Location of the nearest available public water supply and wastewater disposal system and the proposed tie-in points, or any explanation of alternative systems to be used.

- [4] Exact locations of onsite and nearby existing and proposed fire hydrants.
- d. *Street, parking and loading.*
  - [1] The layout of streets and driveways with paving and drainage plans and profiles showing existing and proposed elevations and grades of all public and private paved areas.
  - [2] A parking and loading plan showing the total number and dimensions of proposed parking spaces, spaces reserved for handicapped parking, loading areas, proposed ingress and egress (including proposed public street modifications), and projected on-site traffic flow.
  - [3] The location of all exterior lighting.
  - [4] The location and specifications of any proposed garbage dumpsters.
  - [5] Typical and special roadway and drainage sections and summary of quantities.
- e. *Tree removal and protection.*
  - [1] All protected trees to be removed and a statement of why they are to be removed.
  - [2] Proposed changes in the natural grade and any other development activities directly affecting trees to be retained.
  - [3] A statement of the measures to be taken to protect the trees to be retained.
  - [4] A statement of tree relocations proposed.
- f. *Landscaping.* A landscape plan prepared by a person registered as a landscape architect under F.S. ch. 481, pt. II (F.S. § 481.301 et seq.) shall be submitted in conjunction with any development requiring site plan approval. All landscape plan sheets shall be signed and sealed. The landscape plan shall indicate the following, using acceptable methods of drafting and delineation techniques:
  - [1] Delineation of existing and proposed parking, calculations of vehicular use areas and percent applied to interior landscaping.
  - [2] Access aisles, driveways, sidewalks, curbs.
  - [3] Any vehicular use controls (signs, stripes, firelanes, other special areas).
  - [4] Location of curb cut on adjacent property and rights-of-way.
  - [5] Location of median opening on abutting street.

- [6] Lighting.
  - [7] Irrigation systems.
  - [8] Planting areas (quantity, spacing, size, shapes, species).
  - [9] Decorative or screen walls (heights and types of construction).
  - [10] Existing and proposed trees (quantity, spacing, size, species and location of existing trees).
  - [11] Wheel stops.
  - [12] Screening or buffering as required.
  - [13] Contour data and drainage scheme (one-foot U.S.G.S. Datum Contours).
- g. *Stormwater management.*
- [1] A stormwater management plan that describes the type and location of control measures, the stage of development at which they will be put into place or used, and maintenance provisions and other requirements in the stormwater section.
  - [2] The entity or agency responsible for the operation and maintenance of the stormwater management system.
  - [3] Runoff calculations shall be in accord with the stormwater management ordinance and SJRWMD.
- h. *Environmentally sensitive lands.*
- [1] The exact sites and specifications for all proposed drainage, filling, grading, dredging, and vegetation removal activities, including estimated quantities of excavation or fill materials computed from cross sections proposed within an area of impact as defined in the comprehensive plan.
  - [2] Detailed statement or other materials showing the following:
    - [a] The percentage of the land surface of the site that is covered with natural vegetation to be removed by development.
    - [b] The distances between development activities and the boundaries of the protected environmentally sensitive zones.
  - [3] The manner in which habitats of endangered and threatened species are protected.
  - [4] Wellfield protection. Location of onsite wells, and wells within 1,000 feet of any property line, exceeding 100,000 gallons per day.



[5] Historic and archaeologic sites. The manner in which historic and archaeologic locations on the site, or within 1,000 feet of any boundary of the site, will be protected.

- i. *Signs.* Signs shall be depicted on the preliminary development plan in sufficient detail to clearly illustrate their size, type, structure (as appropriate), height, proximity to buildings, rights-of-way, streets, and general location. Prior to construction of any regulated sign under this Code, plans and permits must be obtained as prescribed herein.

F. *Time-frame for approvals.*

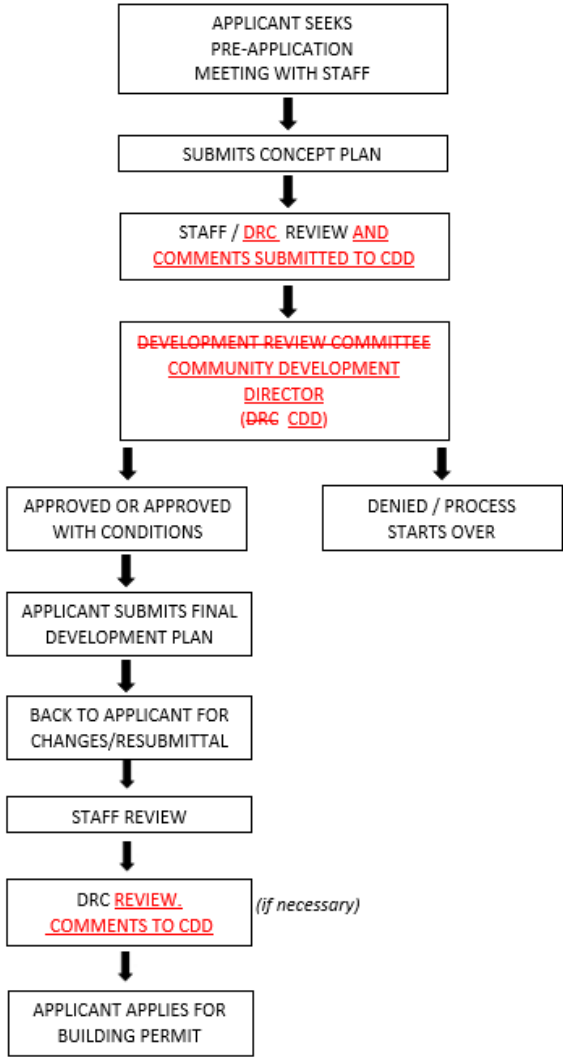
1. After approval of the concept plan by the city, the developer must submit the final development plan within 24 months and obtain approval from the city of the final development plan within 30 months of concept plan approval. A new concurrency evaluation may be required, at the request of the director, if it appears that conditions have substantially changed to warrant reconsideration of concurrency matters. The determination to request a new concurrency evaluation, including the determination that there has been a substantial change to warrant reconsideration, shall lie solely in the discretion of the director, with concurrence of the city manager. For Planned Unit Development (PUD) or Planned Commercial Development (PCD) zoning designations, the approval of the rezoning ordinance to PUD or PCD zoning designation, including an attached master development agreement and concept plan, shall constitute the approval of the concept plan herein thereby starting the time period for submission and approval of the final development plan.
2. If construction has not commenced within one year of final development plan approval, the city council may grant a six-month extension of the plan, and, if subsequently determined necessary by the city council, additional six-month extensions, upon consideration of appropriate documentation demonstrating justifiable cause for the construction delay. Lot clearing and grading, road construction, drainage improvements and landscaping shall not constitute commencement of development activity for purposes of this section, except in the case of a residential subdivision. At the time the project is to commence, the city reserves the right to activate concurrency review if conditions warrant. The determination to request a new concurrency evaluation shall lie solely within the discretion of the director, with concurrence of the city manager.

- G. *Changes to approved site plans.* Any major or substantial change in an approved or final plan which affects the intent and character of the development, land use pattern, the location or dimensions of major streets, or similar substantial changes, shall be reviewed and approved by the staff development review committee (DRC). Minor changes which do not affect the intent or character of the development may be approved by the director, with concurrence of the city manager, who will report

such changes to the city council. Major or substantial changes to plans which require a recommendation from the LDRB PAB and approval by the city council ~~approval~~ shall be reviewed by the LDRB PAB after recommendation from the DRC CDD, with subsequent referral to the city council for final action. Major or substantial changes may require submittal of a new concurrency evaluation to assure compliance with level-of-service standards as adopted by the city.

- H. *Project phasing.* For projects which are to be developed in phases a concept plan for all phases is required. In addition to any other requirements, the plan shall show all areas to be developed, with phases identified. The final development plan shall clearly indicate all phases, with the general location or types of development to be included in each phase. Prior to the issuance of building permits for subsequent phases, concept and final development plans shall be submitted and approved as stated herein. The city reserves the right to require a master development agreement to bind all parties for the term of the project or agreement, whichever is greater.
- I. *Effective period of a plan.* A development or separately approved phase of development must be completed within three years of approval of the final development plan for the development or phase. The city manager may approve up to a 12-month extension to the completion date as long as the development is proceeding towards completion in good faith. If the development is not completed within the time period set forth above, including any extension approved by the city manager, the matter shall be presented to the city council, which may grant additional time to complete the project. Failure to complete the development within the time period set forth above, including all extensions approved by the city manager and/or city council, shall cause a forfeiture of the right to proceed under the development plan and require re-initiation of the application, concurrency evaluations, payment of additional fees and compliance with current regulations. For purposes of this section, a development is deemed complete when all certificates of occupancy have been approved for the entire development, including all phases.

**FIGURE 3**  
**DEVELOPMENT PLAN REVIEW**



**Sec. 3.7. Subdivision.**

- A. *Intent.* The approval of a subdivision is a legislative process involving city staff, ~~LDRB~~ PAB and city council review. The intent of this section is to ensure that adequate and necessary physical improvements of lasting quality will be installed; to provide for safe and convenient traffic circulation; to provide an efficient, adequate and economic supply of utilities and services to new land developments; to prevent seasonal flooding through provisions of protective flood control and drainage facilities; to help conserve and protect physical, environmental and scenic resources; to promote the public health,

safety, comfort, convenience and general welfare; and to implement the city's comprehensive plan.

- B. *Minimum requirements/application and approval.* The process for application and specific requirements and exhibits for a subdivision are contained in Article VI of these regulations. Every subdivision of land within the city shall include the requirements contained in these regulations. Such requirements include submittal of plans, Section 6.3. The requirements contained within these sections shall constitute the minimum requirements and no omissions shall be permitted. A general development agreement may be required by the city to bind the parties.

### **Sec. 3.8. Zoning permits.**

- A. *Issuance of zoning approval.* Before any development plans are submitted, or prior to any development permit for which a development plan is not required to be issued, or before any development is undertaken for which a development permit is not required, an authorization of zoning must be issued. Such authorization may be given by the director, or designee, and must indicate that the proposed use, structure, lot, or appurtenance is permitted under the zoning regulations of this code. Issuance of a local business tax receipt will serve as prima facia evidence that the use is allowed, but other actions will require a certificate of zoning conformance. Approval of the zoning certificate will expire upon termination, abandonment for six months, or change in use of the lot or structure. Revocation by the city for cause is allowed if any of the requirements for each zoning district is violated. If revoked, the owner has 90 days to bring the property or violation into compliance with the Code.

### **Sec. 3.9. Special exceptions/use permits.**

In addition to the permitted uses specified in each zoning classification, there are also additional uses specified in each district which may be considered subject to the specific restrictions and conditions specified in this Code. These special uses shall be reviewed pursuant to the general standards specified therein. All special exceptions/uses shall be clearly marked on the official zoning map at the time of approval by the city council.

### **Sec. 3.10. Building permits.**

The department is responsible for creation of the necessary forms to assure that the proposed construction drawings, methods, and management at construction-sites is done in conformance with local, county, and state building and safety practices. Through Ordinance Number 10-9 the City has adopted the 2007 edition of the Florida Building Code and future editions, adopted the 2007 edition of the Building Officials Association of Florida Model Administrative Code for the 2007 Florida Building Code and future editions, adopted the 2009 edition of the International Property Maintenance Code and International Fire Code

and future editions as published by the International Code Council which will serve as the basic minimum criteria for a building permit to be issued.

Internal procedures will be established by the director who along with the chief building official is responsible for the administration of this Code and the building codes. The chief building official will be responsible for reviewing plans, issuing permits, and conducting inspections on-site to assure that the building is being constructed in conformance with the plans and permits. In the absence of the chief building official, the director will have the authority to issue permits and cause the inspections, seek remedial action for violations, and stop work that is not in compliance with established codes. Upon an approved final inspection, the chief building official, or director, may issue a certificate of occupancy, which authorizes the legal occupancy of the structure. In the event of business location or relocation, a local business tax receipt is also required.

### **Sec. 3.11. Other permits required for development.**

A. *Internal (city) permits.* Application forms currently in use are listed below. One application for all building permits is available from the city.

1. Building permit application.
2. Building permit receipt.
3. General complaint form.
4. ~~LDRB and BOAA~~ PAB application.
5. Building inspection form.
6. Property inspection report.
7. Certificate of registration form.

B. *External (non-city) permits.*

1. *Septic tank permit:* These are issued by the Volusia County Health Department for all locations not on central sewer. South Daytona requires a county-approved septic tank permit, if applicable, prior to issuing a building permit, and a city final inspection approval prior to issuing a certificate of occupancy.
2. *SJRWMD:* This permit is required for drainage improvements associated with new construction prior to issuance of a building permit. As-built surveys for approval by the city are required.
3. *FDEP:* DEP permits are required for dock and seawall construction, and an approval is required prior to issuance of municipal building permit. DEP permits are also required for additions to our water and sewer systems. New subdivisions must have these permits prior to local approval to construct.

4. *U.S. Army Corps of Engineers:* These permits are also required for dock and seawall construction. Review and approval by the city is required prior to the issuance of a building permit.
5. *Traffic impact fee:* A receipt showing payment of the county impact fee is required before issuance of a certificate of occupancy. The fee can also apply to existing structures where a change of use is involved. When there is a question on an existing building, the applicant is required (usually for a local business tax receipt) to produce a receipt or a statement that the fee does not apply.
6. *Wetlands permit:* This is a Volusia County requirement for any construction in the designated wetlands area. Typically this permit will be required for dock or seawall construction.
7. *Hazardous wastes:* Volusia County also regulates hazardous waste sources. Copies of County permits issued shall be attached to the city permit for building construction or the city local business tax receipt.
8. *HRS:* HRS certification for items such as nursing homes, day care centers and ACLF's is required to be shown at the time of issuance of a local business tax receipt.
9. *Daytona Beach:* By contract, an extension of the South Daytona water and sewer service area must be approved by Daytona Beach.
10. *State of Florida - Department of Business and Professional Regulation:* Restaurant inspections.
11. *State of Florida - Division of Alcohol, Tobacco, Firearms:* Alcohol permits.

### **Sec. 3.12. Compliance with Volusia County minimum performance standards.**

Volusia County has adopted a series of minimum performance standards which the municipalities are required to adopt within their own jurisdictions. The city may adopt new standards or revise existing permits from time to time. Any permits currently or subsequently adopted by the city are hereby incorporated herein and apply whether or not specifically referenced. Those adopted by the city are incorporated by reference and are applicable. Any standards adopted or amended will also be incorporated herein.

### **Sec. 3.13. Non-conforming provisions.**

- A. *Types of non-conforming status.* Within the districts established by this Code, or amendments that may later be adopted, there may exist:

Lots, uses of land, or structures which lawfully existed before this Code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Code.

It is the intent of this Code to permit these nonconformities to continue in their present condition but not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

- B. *Non-conforming lots of record.* Where two or more adjacent nonconforming lots are under the same ownership, or where a nonconforming lot is adjacent to a conforming lot under the same ownership, such lot or lots shall be combined to form a single lot in compliance, or as close thereto as possible, with the then existing regulations if such joinder will result in a lessening of the nonconformity.

As long as the above provision is complied with when applicable, in any single-family residential district, notwithstanding district lot width or area requirements, a single-family dwelling and customary accessory buildings may be erected on any single lot of record as defined herein which existed at the effective date of adoption or amendment of the Code. This provision shall apply even though such lot fails to meet the requirements applying to area or width, or both, of the lot as long as said lot conforms to all other regulations for district in which such lot is located. On non-conforming lots of record zoned commercial or industrial on the effective date of this ordinance, one commercial or industrial building shall be permitted provided that no adjoining lots are in the same ownership, or were in the same ownership at the effective date of this ordinance.

No portion of any non-conforming lot shall be sold or used in a manner which diminishes compliance with lot width and area requirements established by this Code, nor shall any division of any parcel be made which creates a lot width or area below the requirements statements stated in this Code.

- C. *Non-conforming uses of land and structures.* The use of any building or structure not in conformance with these regulations pertaining to uses permitted on the effective date of this ordinance may not be:
1. Changed to another non-conforming use.
  2. Re-established after discontinuance for six months.
  3. Extended, enlarged, or expanded.
  4. Rebuilt, or repaired after damage exceeding 50 percent of its assessed value as determined by the Property Appraiser of Volusia County, Florida, immediately prior to the damage.
- D. *Non-conforming structures.* All conforming structures as of the date of this Code which might otherwise be rendered non-conforming shall be deemed to be non-conforming under this Code, and future development or expansion of these existing structures shall be regulated by dimensional requirements of this Code.

A non-conforming structure existing prior to the adoption of this Code shall continue to have such non-conforming status and shall be subject to the applicable provisions of this Code, including the following, which shall apply so long as the use of land or structure remains otherwise lawful:

1. No such non-conforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its non-conformity.
2. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than 50 percent of its current assessed value as recorded in the Volusia County Property Appraiser's office at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Code.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is removed.

E. *Non-conforming mobile home uses and structures.*

- ~~1. In a mobile home park or a mobile home subdivision which constitutes a non-conforming use or contains non-conforming structures and the non-conformity cannot be completely corrected, a mobile home may be replaced if the replacement mobile home complies with the current front, side and rear yard setbacks as required for the intended location or, if it cannot meet the setback requirements, the replacement mobile home is equipped with an automatic fire sprinkler system sufficient to meet city standards.~~
- ~~2. The city shall waive the plumbing and electrical permit fees for any individual who elects to have the replacement mobile home equipped with an automatic fire sprinkler system as set forth in paragraph (1) above.~~
- ~~3. A mobile home which constitutes a non-conforming use that is located on property other than in a mobile home park or mobile home subdivision cannot be replaced once the mobile home is removed from its location.~~
- ~~4. Except as specifically provided in this section, mobile home parks and mobile home subdivisions which are either non-conforming uses or contain non-conforming structures shall be governed by the regulations and restrictions as set forth in the non-conforming provisions of the land development code or as set forth by statutory or case law.~~

F. *Repairs and maintenance.* On any non-conforming structure or portion of a structure containing a non-conforming use, repairs and modernization are permitted provided that the cubic area existing when it became non-conforming shall not be increased. Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any public official charged with protecting the public safety, upon order of such official.

G. *Abandonment of non-conforming uses of land or structures.* If a non-conforming use of land or a non-conforming use of structure has been abandoned for a period of 180



consecutive days, such use shall not thereafter be re-established and any future use shall be in conformity with the provisions of this Code.

H. G. All appurtenances, including but not limited to curb/gutter, roadways, utilities, stormwater management features, etc., shall be brought into conformance upon conversion, maintenance or improvement valued at 50 percent of the value of the appurtenance.

I. H. *Uses under special exception or special use provisions are not non-conforming uses.* Any use which is permitted as a special exception or special (conditional) use in a district under the terms of this Code shall be deemed a conforming use, subject to any conditions legally imposed by the city council in the past.

J. I. *Non-conforming uses/structures in flood hazard areas.* A structure or the use of a structure or premises which was lawful before the passage or amendment of this article but which is not in conformity with its provisions may be continued as a non-conforming use subject to the following conditions:

1. Any substantial improvement of a non-conforming structure shall be made in compliance with the provisions of this Code.
2. If such use is discontinued for 90 consecutive days, any future use of the building premises shall conform to this Code.
3. If any non-conforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its assessed value immediately prior to the destruction, it shall not be reconstructed except in conformity with the provisions of this Code.
4. The value of all improvements, modifications, additions, and reconstruction to any existing building in the flood hazard area shall be recorded and counted cumulatively for ten years from the first date of such action. When the cumulative total value of such improvements exceeds 50 percent of the assessed value of such building, it shall be brought up to the code requirements for new buildings.

K. J. *Conversions to condominiums.* It is hereby declared that the conversion of an apartment, hotel or motel into a condominium shall constitute a change in use and as such the grandfathered status of all nonconformities shall terminate.

### **Sec. 3.14. ~~Reserved.~~ Variances**

The City Manager shall review and after determining that all of the below criteria are met, make a recommendation to the City Council regarding requests for variances from the quantitative terms of the zoning regulations where, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship upon, and personal to, the applicant therefor, and not surrounding properties. If all criteria are not met, the variance request must be denied by the City Manager.

In order to process an application for any variance from the terms of this Code, the City Manager must find that all of the following criteria are met:

- i. The variance requested is for dimensional standards within the Code and not related to Use;
- ii. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- iii. That the special conditions and circumstances do not result from the actions of the applicant and that the hardship is not self imposed;
- iv. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, buildings, or structures in the same zoning district;
- v. That literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Code and would work unnecessary and undue hardship on the applicant;
- vi. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- vii. That the granting of the variance will be in harmony with the general intent and purpose of the Code and that such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.

In granting a variance, the City Manager may recommend the City Council prescribe appropriate conditions and safeguards in conformity with this article and any code enacted under its authority. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. The City Manager may recommend the City Council prescribe a reasonable time limit within which the action for which the variance is required shall begin or be completed or both. However, unless otherwise prescribed, a variance for which construction has not commenced pursuant thereto within 365 days of its issuance shall become void unless extended or re-approved by the City Manager. Lapse of a variance by the passage of time shall not preclude subsequent application for variance.

Under no circumstances shall the City Manager recommend the City Council grant a variance to permit a use not generally or by special conditions permitted in the zoning district involved, or any use expressly or by implication prohibited by the terms of this Code in the zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

**Sec. 3.15. Appeal of administrative orders.**

The City Council shall hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any provision of the Land Development Code. Such an appeal shall be made within 30 days after the order, requirement, decision, or determination is issued. The appeal shall be in the form prescribed by the City Manager.

The administrative decision that is appealed shall be presumed correct and the party appealing the decision has the burden of proof to establish by a preponderance of evidence that the decision is not supported by or is inconsistent with the law or facts.

In exercising its powers, the City Council may, upon appeal and in conformity with provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by an administrative official in the enforcement of this Code, and may make any necessary order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is made.

An appeal stays all work. An appeal to the City Council stays all work on the premises unless the chief building official certifies that by reason of fact stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except as ordered by a court of competent jurisdiction.

**Sec. 3.16. Evaluation of request for accommodation under the Fair Housing Act.**

A request may be made by the property owner or authorized representative for a request for an accommodation from the city's rules, policy, practices or service to allow a handicapped person or persons to have equal opportunity to use and enjoy a dwelling. The request shall be on an approved form issued by the city and must contain the following:

- (a) Proof of ownership of the property which the request is being made or authorization from the property owner.
- (b) Specifically identify the rules, policies, practices or services from which relief is being requested.
- (c) Identify the nature of the disability of the occupants of the dwelling.
- (d) Outline the minimum relief that is necessary to allow a handicapped person to use and enjoy the dwelling.
- (e) Describe in detail how the requested relief is necessary to allow a person with the above-identified disability to be able to reasonably use and enjoy the dwelling.
- (f) Access must be granted to the necessary city employees to inspect the dwelling.

The City Manager shall evaluate all necessary criteria, facts, rules, laws, etc., to make a determination as to whether the requested accommodation is reasonable, including, but not limited to:

- (a) The policies and objectives of the city's comprehensive plan including the future land use designation of the property in question.
- (b) The permitted uses, conditional uses and special exceptions allowed for the zoning designation of the property in question.
- (c) The surrounding neighborhood, including zoning and future land use designations of the surrounding area.
- (d) The capacity of existing city utilities and infrastructures to accommodate the requested use.
- (e) Existing traffic patterns and traffic problems in the area that currently exist or may become a problem if the requested relief was granted.
- (f) Potential for noise, dust or other impacts to the neighborhood.
- (g) Ability of the existing dwelling to accommodate the requested variation, including bedrooms, bathrooms, outside parking and existing compliance with current building codes to determine the existence of any life and safety issues.
- (h) The existence of any current code violations.

An applicant adversely affected by a final decision of the City Manager concerning a request for accommodation under the Fair Housing Act may appeal such decision to the City Council in the manner provided in Section 3.15.

**Sec. 3.17. Design Review Board**

The City Council is designated as the final authority for appeals of orders of administrative officials in the enforcement of Section 8.5 (Residential Design Requirements) in the manner provided in Section 3.2(1)(2)(a).

**ARTICLE IV.  
CONSISTENCY AND CONCURRENCY**

**Sec. 4.2. Concurrency management system.**

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Table 1  
South Daytona Development Capacity Management Process

	Capacity Reservation	Reservation Expiration	Capacity Award	Capacity Expiration
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Building Permit	Approval by CBO	2 months	Issuance and delivery	6 months
Subdivision Approval	<del>LDRB</del> concept plat approval	12 months	City council final plat approval	24 months
Site Plan Approval	DRC review	6 months	<del>DRC approval</del> review	12 months

\*\*\*

*J. Administration.* Although the city council has the ultimate responsibility for the implementation of the CMS, various city agencies and officials carry out functions in the program. The city manager, as concurrency manager, provides administrative oversight for the program. However, the community development director/chief building official will be responsible for the day-to-day concurrency management decisions such as concurrency evaluations and the issuance of concurrency compliance certifications and building permits. Such agencies as the ~~land development regulation board (LDRB)~~ Planning Advisory Board (PAB) with respect to the comprehensive plan, subdivision review, ~~and~~ concurrency appeals, and ~~the board of adjustment with respect to~~ other appeals, will exercise their statutory functions in the administrative process.

*K. Appeals.*

1. Except as otherwise provided in the City Code, appeals from concurrency determinations of city officials or agencies shall be taken before the ~~land development regulation board (LDRB)~~ City Council. Any such appeal must be filed in writing with the community development director (CDD) within 20 calendar days of rendition of the decision in question, and the reasons for such appeal shall be set forth therein. The ~~CDD~~ City Manager shall arrange for an appeal hearing before the ~~LDRB~~ City Council and shall notify the appellant in writing of the date, time and place of the hearing.

**ARTICLE V. Zoning Regulations**

**Sec. 5.5. Schedule of zoning district regulations.**

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*O. PUD - planned unit development district.*

12. *Application for rezoning:*

a. *Application information:*

[10] Any other information deemed pertinent by the applicant, city staff, ~~land development regulation board~~ Planning Advisory Board (PAB) or city council.

- b. *Review procedure.* The ~~LDRB~~ PAB shall have 60 days from the first public hearing to review the concept plan and provide comments to the city council. If the review is not completed within 60 days, the plan will be forwarded to the council without comment.

The concept plan shall be approved or disapproved by the city council within 30 days after initial review by the council. However, the council may table the plan for further study at any time. If the concept plan is disapproved, reasons for disapproval shall be formally stated. Any change to the application in order to solicit approval shall be formally submitted in writing, and may be referred back to the ~~LDRB~~ PAB for further review, at the council's discretion.

### **Sec. 5.6. Supplementary regulations.**

11. *Prohibited accessory structures.*

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- B. *Authority to enter upon private property.* The following representatives of the city in the performance of their duties under the provisions of this ordinance, may enter upon any land and make examinations and surveys as deemed necessary in the administration and enforcement of these regulations: ~~any member of the LDRB; any member of the BOAA City Council or PAB; and any member of the CEB;~~ any authorized employee of the city.

C. *Bufferyards.*

\*\*\*

3. *Fences and walls.*

- a. The ~~DRC-CDD~~, after receiving comments from the DRC, may require the provision of an opaque fence or wall between commercial and residential areas if a pre-existing pattern is there or if that is desirable as a buffer between the two adjacent land uses; otherwise no wall or fence shall be required in addition to the bufferyard. Fence requirements between multi-family parking areas and commercial office parking areas may be waived by the ~~DRC-CDD~~.
- b. Optional - A six-foot high fence or wall may be substituted for ten feet of required bufferyard width and 25 percent of required landscape material when the intensity factor difference is three or greater.

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- E. *Fences and walls.* All fences and walls shall be constructed in compliance with applicable building codes and according to the following dimensions and use regulations.

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2. *R1a, R1b, R1c, and R2 Residential Districts.*

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~~d. *Exception for decorative fences or walls:* The LDRB PAB may authorize decorative fences or walls in the front yard closer to the street right-of-way than otherwise allowed in this ordinance. Such fences or walls shall not exceed four feet in height. When considering whether to authorize a decorative fence or wall, the LDRB PAB shall use the following guidelines:~~

- ~~• The fence/wall material must be durable and attractive, something that does not rapidly deteriorate and is relatively easy to maintain.~~
- ~~• Acceptable materials shall include, but are not limited to, the following: natural or artificial stone, brick, masonry, wrought iron, and stuccoed concrete block.~~
- ~~• Unacceptable materials shall include, but are not limited to, the following: ordinary chain-link fencing, and common wooden fences such as shadow box, picket, board, and post and rail.~~
- ~~• Proposed fences and walls must be compatible in style, materials, location, etc. with those found in the front yards of neighboring properties abutting the same street.~~

~~e. d. Side and rear yards which do not abut a street: In side and rear yards which do not abut a street fence or walls must comply with the following location and height requirements: fences or walls of open or solid face construction shall be permitted in the yard behind (not abutting a street) the frontage yard with a height not exceeding six feet at all lot lines or interior areas of any such yard, including the boundary line between it and any frontage yards.~~

~~f. e. Waterfront yards: Fences and walls of open or solid face construction shall be permitted at all waterfront yard lot liens and interior waterfront yard areas not to exceed four feet in height. For the purpose of measuring a fence in a waterfront yard, the point of measurement shall be the mean high water line or the seawall, whichever is closer to the principal structure or buildable yard area.~~

~~g. f. Vacant lots: Fences and walls or open or solid face construction may be permitted on vacant residential lots provided that they are not installed closer than 25 feet from the abutting street for a front yard and ten feet from the abutting street for a side yard; such fences shall not exceed four feet in height. Where the side yard does not abut a street or for rear yards, there is no setback limitation, and the fence/wall may be located anywhere in the side or rear yard at a height not to exceed six feet.~~

~~h. g. "Grand-fathering" of existing fences and walls: All existing fences and walls which do not conform with the location and height restrictions of this ordinance shall be allowed to continue in existence as such in accordance with the following conditions: Any such fence or wall may be: (1) repaired to code; (2) replaced if damaged or destroyed by a natural event, such as a storm; (3) replaced if damaged or destroyed due~~

to an accident. Provided, however, that replacement under the aforementioned circumstances must be accomplished within 90 days after permit issuance; if replacement is not completed within that time, the replacement structure must be brought into conformance. Also, any fence or wall which has deteriorated beyond the point of repair shall not be grandfathered and when replaced shall conform with the location and height requirements of the current regulations. The determination of the condition "deteriorated beyond point of repair" shall be made by the community development director or his designee, and the term shall mean that 50 percent or more of the overall fence materials need replacement due to deterioration caused by the "ravages of time" and lack of maintenance.

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2.1. *Residential districts other than R1a, R1b, R1c, and R2.*

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G. *Houseboats.* No houseboat shall be permitted to fasten to a dock, anchor to land, or to remain in any of the waterways within the territory subject to these regulations in excess of seven days without a permit. Application for such permit shall be made to the ~~land development regulation board~~ Planning Advisory Board (PAB). ~~The LDRB PAB may authorize the issuance of permits for said houseboat use and occupancy, provided said use and occupancy does not conflict with the uses of the immediate area; otherwise a public hearing will be held before permitting such use and occupancy in a given area.~~

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I. *Living units in industrial zones.* Upon application, the city council may, after review and input from the ~~LDRB PAB~~, approve the addition of one dwelling unit to be used as caretaker/manager quarters only. This unit will be subject to the setback and size requirements as approved by the city council.

**Sec. 5.7. Special exceptions.**

A. *Application and hearing procedure.*

1. *Written application:* Written application for a special exception shall be made to the community development department using the application form provided by the city. The application should normally be filed at least ~~28~~ 30 days prior to the ~~land development regulation~~ Planning Advisory Board's public hearing date; however, if circumstances warrant a shorter lead time, the CDD may allow a shorter period. In addition to the information required on the form, the applicant shall provide the following:

\*\*\*

2. ~~Land development regulation board~~ Planning Advisory Board. The ~~LDRB PAB~~ shall review the application for special exception based on the requirements and criteria



of this article and shall recommend either approval, approval with conditions, or denial to the city council.

3. *City council action.* Upon receipt of the ~~land development regulation~~ Planning Advisory Board's recommendation, the city council shall either approve, approve with conditions, or deny the application. ~~When denying an application, the city council shall specifically state the rationale used as the basis for the denial.~~

B. *General requirements and conditions.*

1. *Conditions and safeguards:* In granting any special exception, the ~~land development regulation board~~ Planning Advisory Board (PAB) may recommend, and the city council may prescribe, appropriate conditions and safeguards to assure compliance with the requirements of this section and the Code in general. Such conditions may include time limits for the initiation of the Special Exception use, specific minimum or maximum limits to regular zoning requirements, or any other conditions reasonably related to the requirements and criteria of this section.
2. *Review criteria and requirements:* When reviewing an application for special exception, the ~~land development regulation board~~ Planning Advisory Board (PAB) and city council shall consider the following requirements and criteria:

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C. *Special requirements and conditions for special exception uses:*

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11. *Laboratories, scientific and industrial:* A special exception may be granted under the following conditions:
  - a. The use must not utilize, store, or produce any hazardous material.
  - b. The use must be compatible with adjoining land uses.
  - c. The use must be approved by the ~~development review committee~~ City Manager after receiving a recommendation from the Community Development Director (CDD) and comments from the Development Review Committee (DRC).
12. *Operations which are in the business of providing locations for outside storage, parking, or rental of semi-trailer trucks, other trucks, or trailers:*
  - e. If the site is located such that the named vehicles or equipment stored or parked are readily visible from Nova Road, for purposes of buffering, appearance and security special measures must be taken. Special measures to be considered, either singly or in combination, include: fences or walls, heavy perimeter landscaping, planting of trees, and landscaping and trees on the "out"-side of perimeter fencing or walls. Perimeter fences or walls must be set

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back from the street right-of-way a distance of at least 15 feet. Considerable discretion may be exercised by the city council in determining the exact nature of the buffering program for a specific site. The city council shall consider the recommendations of the ~~development review committee~~ Community Development Director (staff/CDD) and the ~~LDRB~~ PAB when deciding upon any buffering program.

13. *Operations which are in the business of providing locations for outside storage, parking, or rental of operational RV's or boats:*
  - e. If the site is located such that the named vehicles or equipment stored or parked are readily visible from South Nova Road, for purposes of buffering, appearance and security special measures shall be taken. Special measures to be considered include: masonry walls, heavy perimeter landscaping, planting of trees, and landscaping and trees on the "out"-side of perimeter fencing or walls. Perimeter walls must be set back from the street right-of-way a distance of at least 15 feet. Considerable discretion may be exercised by the city council in determining the exact nature of the buffering program for a specific site. The city council shall consider the recommendations of the ~~development review committee~~ Community Development Director (staff/CDD) and the PAB when deciding upon any buffering program.

### **Sec. 5.8. Special uses.**

#### *A. Scope.*

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1. *Application and hearing procedure.* Written application for a special use shall be made to the community development department using the application provided by the city. The application should normally be filed at least 28 days prior to the ~~land development regulation~~ Planning Advisory Board's public hearing date; however, if circumstances warrant a shorter lead time, the CDD may allow a shorter period. In addition to the information required on the form, the applicant shall provide the following:

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2. ~~Land development regulation board~~ Planning Advisory Board (PAB). The ~~land development regulation board~~ Planning Advisory Board (PAB) shall review the application for special use, based on the requirements and criteria of this article and for consistency with the comprehensive land use plan, and shall recommend either approval, approval with conditions, or denial to the city council.
3. *City council action.* Upon receipt of the ~~land development regulation~~ Planning Advisory Board's recommendation, the city council shall either approve, approve

with conditions, or deny the application. ~~When denying an application, the city council shall specifically state the rationale upon which the denial is based.~~

B. *General requirements and conditions.*

1. *Conditions and safeguards.* Generally, special uses would not be appropriate without restriction throughout their particular zoning districts, but may, if controlled as to number, area, location, or relation to the neighborhood, not adversely affect the public health, safety, comfort, good order, appearance, convenience and general welfare.

Consequently, in granting any special use, the ~~land development regulation board~~ Planning Advisory Board (PAB) may recommend, and the city council may prescribe, appropriate conditions and safeguards to assure compliance with the requirements and objectives of this article, the zoning code in general, and the comprehensive land use plan. Such conditions may include time limits for the initiation of the special use, and specific modifications to regular zoning code requirements and criteria of this section, such as, but not limited to, the manner of construction, maintenance, and operation of the special use. Failure to comply with any conditions attached to a special use shall be deemed a violation of the zoning code and shall be enforceable as such, including code enforcement board measures and/or court action as deemed appropriate by the city. Also, permits, local business tax receipts, and certificates of occupancy, as appropriate, shall not be issued for any special use in violation of its conditions. Nothing contained in this section shall preclude the special use from complying with the standard building, plumbing, electrical, mechanical or fire codes, nor any additional state or local ordinances.

2. *General criteria and requirements.* When reviewing an application for special use, the ~~land development regulation board~~ Planning Advisory Board (PAB) and the city council shall consider the following requirements and criteria:

**Sec. 5.9. Telecommunications antennas and towers.**

- A. *Definitions.* As used in this section, the following terms shall have the meanings indicated:

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7. *Development review committee (DRC):* Shall mean the group of city staff members and consultants designated by the city manager to review and make certain ~~decisions~~ comments concerning proposed development projects, including telecommunications towers and antennas. Comments will be provided to the City Manager or his designee.

\*\*\*

- D. *Permitted uses.* The telecommunications towers and antennas listed in this section, including the equipment buildings or other supporting equipment used in connection with said communication towers or antennas, are deemed to be permitted uses and

shall not require ~~DRC staff~~ approval or a special use permit. Nevertheless, all such proposed uses shall comply with subsection C. of this section and all other applicable ordinances. All applications shall be reviewed by the community development director.

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E. *Site plan review required—Approval by ~~DRC~~ City Manager.*

1. *General.* The development review committee shall provide comments to the Community Development Director (CDD) who may, with concurrence of the city manager, administratively approve the uses listed in this section.
2. *Specific administratively approved uses.* The following uses may be approved by the ~~DRC~~ City Manger after conducting an administrative review with input from the CDD and DRC:

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- c. Locating any alternative tower structure in a zoning district other than single-family residential that in the judgment of the ~~DRC~~ City Manager is in conformity with the goals of this section. The alternative tower structure must comply with all applicable zoning and building requirements for the district in which said structure will be constructed.
3. *Application for administrative approval.*
  - a. Each applicant for administrative approval shall apply to the community development department, providing the information required by this section.
  - b. The DRC shall provide comments to the CDD who will strive to respond to each such application within 30 days a reasonable time frame after receiving it by either approving or denying the application with concurrence of the City Manager. ~~If the DRC fails to respond to the applicant within said 30 days, then the application shall be deemed to be approved.~~
  - c. In connection with any such administrative approval, the ~~DRC~~ CDD may with concurrence of the City Manager, in order to encourage shared use (co-location), administratively waive any zoning district setback requirements by up to 50 percent.
  - d. If ~~DRC~~ CDD approval is denied, the applicant may appeal said denial to the city council within 30 days of notification of the denial.

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F. *Special use permits—Approval by city council after review by the ~~LDRB~~ PAB.*

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4. *Factors considered in granting special use permits.* The city council shall consider the following factors in determining whether to issue a special use permit, although

they may waive or reduce the burden on the applicant of one or more of these criteria if they conclude that the goals of this section are better served thereby:

- a. The recommendation of the ~~land development regulation board (LDRB)~~ Planning Advisory Board (PAB).

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I. *Landscaping.*

5. Any request to deviate from any of the requirements of this section shall require variance approval from the ~~board of adjustments and appeals~~ Community Development Director with concurrence of the City Manager.

## ARTICLE VI. SUBDIVISION REGULATIONS

### Sec. 6.1. General provisions.

- A. *Purpose.* The procedures and standards for the development and subdivision of real estate and for the surveying and platting thereof, adopted and prescribed by this article are hereby found by the city to be necessary and appropriate for the following purposes: in order to provide for economical and sufficient streets and sidewalks with proper widths, proper alignments and grades designed to promote the public safety, health and general welfare; to provide for suitable residential neighborhoods with adequate streets, sidewalks, utilities, and building sites; to save unnecessary expenditure of public funds by initial proper construction of streets, sidewalks and utilities; and to provide proper land records for the convenience of the public and for better identification and permanent location of real estate boundaries.
- B. *General requirements and standards.*
  1. Compliance with the standards and performance requirements set forth in the articles entitled engineering/environmental standards and general design standards is required of all subdivisions.
  2. The size, shape and use of all lots to be created by the subdivision shall be consistent with Article V, Zoning Regulations.
  3. There must be compliance with any other procedures or processes as required which are contained in these regulations for the submission of all valid subdivision applications. Said requirements shall be adequately addressed before the community development director (CDD) approves a formal subdivision application for further action.
  4. This article is intended to be consistent with Chapter 177, Part I, Florida Statutes, including the definitions contained therein, and the requirements for plat approval and recording.

- C. *Approval of city council required for platting or replatting.* No lots or parcels of property may be platted or replatted without approval of the city council, except as provided in this Code.
- D. *Application of article; waiver requirements.* This article shall apply to the platting or replatting of lands lying wholly or partly inside the corporate limits of the city. The regulations issued pursuant to this article, and this article itself, may be waived only in accordance with applicable laws and only when it appears that the provisions of the applicable Florida Statutes will not be violated. Before any waiver is given, a public hearing must be held after having given due notice, by advertising in a newspaper of general circulation in the city, advising of the request for the waiver, giving a general description of the area and its location and the specific provisions for which a waiver is requested.
- E. *Approval of plat or replat for recording.* No plat or replat of an existing subdivision shall be approved for recording until all of the requirements of this article have been met.
- F. *Approval of final plat prerequisite to issuance of building permit.* No building permit shall be issued by the city until the final plat and public improvements have been accepted by the city council.

#### **Sec. 6.2. Minor subdivisions.**

- A. *Intent.* The approval of a minor subdivision is intended to allow for the division of a limited number of lots, with minimal need for public facilities, and services, and access provided by existing public streets or new private ways created by this process. It is further intended to encourage the application and review of smaller subdivisions according to the standards and requirements contained within these regulations while minimizing the costs of subdivision review and the imposition of unnecessary requirements.
- B. *Scope.* The CDD may receive requests for a minor subdivision if the property is to be subdivided into six or fewer lots fronting on an existing public street.
- C. *Application.* Application for a minor subdivision shall be made on forms provided by the community development department and shall be processed in the same manner as set forth in Article III for a concept plan. The CDD ~~and~~ with input from the development review committee (DRC) shall ~~have 20 working days to review said application and make their~~ his or her recommendations to the ~~Land Development Regulation Board (LDRB)~~ Planning Advisory Board (PAB). The ~~LDRB~~ PAB shall hold a public hearing on the matter as soon as practicable. At this hearing the ~~LDRB~~ PAB shall decide upon a recommendation for the city council. ~~As soon thereafter as possible~~ The council shall consider the proposed subdivision at a public hearing, at which time it shall decide whether to approve, approve with conditions, or disapprove the subdivision.
- D. *Approval, endorsement, and recordation.* In addition to the application and plat plan review set forth in Article III, the director may require the applicant to submit additional

information as necessary including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously divided or subdivided from that tract of land within the previous five years.

1. Applicants for minor subdivision approval shall submit to the city three copies of a plan conforming to the requirements set forth in subsection 3.6D (Concept Plan). A minor subdivision plat shall contain the following certification.

a. *Certificate of ownership.*

I hereby certify that I am the owner of the property described hereon, which property is within the subdivision regulation jurisdiction of the City of South Daytona, and I freely adopt this plan of division.

Date _____	Owner _____
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b. *Certificate of approval.*

I hereby certify that the minor subdivision shown on this plan does not involve the creation of new public streets or any change in existing public streets, that the division shown is in all respects in compliance with Article VI, Subdivision Regulations, of the Land Development Code of the City of South Daytona, and that this plat has been approved by the South Daytona City Council based on these Regulations, subject to its being recorded in the Volusia County Registry within 60 days of the date below.

	For the City
Date	City Council
Date	City Clerk

c. A certificate of survey and accuracy, in the form stated in Section 6.3.

2. Subject to Article III, the city shall approve the proposed minor subdivision unless it fails to comply with requirements of this article. However, for good cause shown, either the CDD or the applicant may at any time refer the application to the major subdivision approval process.
3. If the subdivision is disapproved, ~~within ten days~~ the director shall furnish the applicant with a written statement of the reason(s) for disapproval.
4. Approval of the subdivision is contingent upon the plat being recorded within 60 days after the date the certificate of approval is signed by the city council or its designee. Two copies of the recorded plat shall be returned to the city clerk, the cost of which shall be borne by the applicant.

SUMMARY OF THE MINOR SUBDIVISION APPROVAL PROCESS  
(6 lots or less)

1. Subdivision request submitted to community development department.

2. Applicant discusses proposal with community development director.
3. As per discussion with director, plan is revised.
4. DRC reviews request and provides comments to the director. The director makes recommendations to applicant.
5. Plan and plat are revised if necessary.
6. Applicant submits final subdivision plat with required certifications.
7. ~~LDRB~~ PAB holds public hearing and makes recommendation.
8. City council holds public hearing and makes decision.
9. If approved, final plat is recorded within 60 days.

**Sec. 6.3. Major subdivision requirements.**

- A. *Intent.* The intent of this section: is to ensure that adequate and necessary physical improvements of lasting quality will be installed; to provide for safe and convenient traffic circulation; to provide an efficient, adequate and economic supply of utilities and services to new land developments; to minimize seasonal flooding through provision of protective flood control and drainage facilities; to help conserve and protect physical, environmental and scenic resources; to promote the public health, safety, comfort, convenience and general welfare; and to implement the city's comprehensive plan. ~~LDRB~~ PAB review is a key element in the major subdivision approval process.
- B. *Minimum requirements.* Every major subdivision of land within the city shall include the requirements contained in this section. Such requirements include (subsection F) a concept plan, optional preliminary plat, and required final plat. The requirements contained within these sections shall constitute the minimum requirements, and no omissions of required exhibits shall be permitted without prior approval of the community development director (CDD) with concurrence of the City Manager.
- C. *Additional requirements.*
  1. Where deemed necessary to address special conditions or circumstances, the CDD shall have the authority to require additional exhibits for any concept plan, preliminary plat or final plat.
  2. Every subdivision shall be required to have two points of access, one of which shall be to a collector street where such a connection is possible. If only one access point is currently possible, a stubout to a future second point of access must be provided.
  3. Off-site improvements, as defined in Section 6.3.(F).(3) and set forth in the design standards of Article VIII, shall be provided as necessary for the approval of any subdivision proposal.
- D. *Pre-application procedure.*



1. *Purpose:* The pre-application stage is offered to afford the subdivider an early opportunity to consult early and informally with the staff and ~~LDRB~~ PAB before preparation of the preliminary and final plats.
2. In order to secure approval of a subdivision plan, the following steps must be followed by the developer:
  - a. An initial conference must be held with the CDD to review pertinent regulations, permitting requirements, schedule of fees, concurrency evaluation, and other issues for code compliance.
  - b. Within six months of such meeting, the developer may submit a concept plan containing the information outlined below, for review by the ~~CDD and DRC~~ who provides comments to the CDD. The CDD who may recommend approval, approval with conditions, or denial of the plan. Should the developer not submit the plan within this time frame, the director may request another meeting to review the project and may, at his discretion, reject the submittal of a concept plan if requirements are not met.
  - c. The CDD will forward the recommendation ~~of the DRC to the land development regulation board~~ Planning Advisory Board (PAB) which will make a recommendation that the City Council approve, approve with conditions, or deny the concept plan. ~~If approved, or approved with conditions, the applicant may proceed to the next stage of the process; if denied, the applicant must start the process over.~~
  - d. The developer then has the option of going from concept to final development plan approval for any type of subdivision.

E. *Concept plan.*

1. At this stage, the applicant must submit a location map, showing the relationship of the proposed subdivision to the existing and proposed streets in that vicinity. In addition, the concept plan shall provide the information specified in subsection 2. below.
2. General subdivision information, including the following:
  - a. General information on existing site conditions and physical characteristics, adjacent community facilities and public utilities, and surrounding property conditions. Also, on-site environmental conditions including a tree survey, location of major trees, wetlands and water bodies, topography, soil types and any documented sightings of threatened or endangered species as verified by the appropriate state agencies.
  - b. General description of the proposed subdivision, including proposed number of lots, minimum lot width and depth, building sizes and types.
  - c. In simple sketch form, a plan showing existing and proposed topographic contours and the proposed pattern of streets, lots and storm drainage in

relation to existing conditions of the site and its surroundings, including major trees and tree clusters to be preserved, and a preliminary estimate of cut and fill requirements.

- d. Identification of any significant departure from normal demands on available levels-of-service for public facilities and services.
  - e. Any off-site improvements required for project feasibility and necessary for the provision of public facilities/services.
- F. *Preliminary plat.* Generally, the developer may elect to whether or not to submit a preliminary plat. A preliminary plat is, however, required for subdivisions which are to be completed in phases. Such plat, if submitted, will contain and be reviewed under the following criteria:
1. The developer shall submit the plat to the director (CDD), at least 45 days prior to the next scheduled meeting of the ~~LDRB~~ PAB. He will schedule the plat for review by the DRC who will provide comments to the CDD. If the ~~DRC~~ CDD recommends approval with concurrence of the City Manager, or ~~approves approval~~ approves approval with conditions, the plat will be scheduled before the ~~LDRB~~ PAB for a hearing, accompanied by the ~~DRC~~ CDD's recommendations. The ~~LDRB~~ PAB shall review and recommend approval, approval with conditions, or denial of the plat. Their recommendations shall be based upon findings of fact, and kept on file by the city.
  2. The preliminary plat application shall include, at a minimum the following information:
    - [a] A letter requesting review of the preliminary plat by the ~~LDRB~~ PAB and its approval by the city council.
    - [b] All required exhibits, as specified in subsection 6.3.F.3. below.
  3. *Exhibits.* The preliminary plat shall be prepared by a Florida registered professional land surveyor (PLS) or engineer (PE) and shall be composed of the following required exhibits in conformance with Chapter 21-6 of the F.A.C.
    - a) Vicinity map, showing relationship between the subdivision and its surrounding area, including adjacent streets and the existing street classification map, and zoning.
    - b) Preliminary plat, prepared at a scale no smaller than 100 feet to one inch showing graphically or by notes:
      - [1] Name of the proposed development.
      - [2] Name or names of the developer, owner, architect, landscape architect, surveyor, engineer and/or land planner.
      - [3] Site data:

- [a] Acreage in total tract; acreage in public use and residential land use; acreage in each zoning category; acreage of water bodies; minimum lot dimensions; total number of lots.
  - [b] Boundaries of tract shown with bearings, distances, closures and bulkhead lines, if any.
  - [c] Adjoining subdivisions and parcels.
  - [d] Proposed streets, street names, and rights-of-way.
  - [e] Proposed lot lines, lot and block numbers and dimensions.
  - [f] Proposed parks, school sites, or other public or private open spaces.
  - [g] Location and width of storm drainage easements and rights-of-way, including retention and detention areas.
  - [h] Location, width, and type of all other public and utility easements.
  - [i] Lands located in the flood hazard areas as shown on FEMA maps.
  - [4] Proposed land uses other than single-family residential.
- (c) Restrictive deeds and covenants and Homeowner's Association documents (if applicable): A draft of this documentation shall be provided.
4. Topographic data map, (may be combined with above preliminary plat) drawn at a scale no smaller than 100 feet to one inch, showing:
- [a] The location of existing and platted property lines, street, rights-of-way, buildings, water courses, transmission lines, sewers, bridges, culverts and drain pipes, water mains, city limit lines, if applicable, and any public utility easements.
  - [b] Wooded areas, streams, lakes, marshes, and any other physical conditions affecting the site, including a tree survey.
  - [c] Existing contours based on NGVD maps and so stated with a contour interval of two feet, and proposed finished elevations.
5. Engineering plans prepared and certified by a Florida registered professional engineer may be presented showing:
- [a] Existing ground surfaces and proposed street elevations in the subdivision.
  - [b] If deemed necessary by the city, subsurface conditions on the tract, including the location and results of tests made to ascertain the

conditions or subsurface soil, rock and ground water, and the existing depth to ground water.

- [c] Typical cross-sections of proposed grading, streets and sidewalks, canals, and surface water features.
- [d] Proposed type of pavement, in accordance with city specifications.
- [e] Layout of water distribution, sanitary sewers and storm drainage systems, with grades and sizes indicated.

6. Approval of the preliminary plat: After the ~~LDRB~~ PAB makes its recommendation on the preliminary plat, the city council shall act to approve, approve with conditions, or deny the preliminary plat. Approval shall not be construed as authority for recording the plat or for selling the referenced lots.

No work shall be commenced in the subdivision until such time as the final engineering plans and specifications have been submitted and approved, all fees have been paid, and final plat is approved by the city council and recorded.

G. *Final plat procedure.*

1. *Procedure.*

- (a) To obtain final plat approval, the subdivider shall, at least 45 calendar days prior to a regularly scheduled meeting of the city council, submit to the director, along with a filing fee, the following:
  - [1] A letter requesting city council review and approval of the final plat. The final plat shall substantially conform with the approved preliminary plat, and may constitute only that portion which the developer proposes to record and develop at that time; provided however, that such portion conforms to all requirements of this article and Chapter 177, F.S.
  - [2] An original reproducible and five black or blue line prints of the final plat or portion thereof, showing data specified in this section.
  - [3] A title opinion from an attorney showing the status of title to the land encompassed by the plat and all liens, encumbrances and title defects, if any.
  - [4] Dedication of all rights-of-way, easements and other public lands shown on the final plat, by all persons having any interest in the lands, either by indication on the plat or by separate joinder to be filed along with it.
  - [5] The final plat shall be properly signed and executed by the subdivider and his agents as required for recording.
- (b) Approval by the city council shall be based upon a report from the director stating that all requirements of these regulations have been met; a favorable report from the city engineer; and a report from the city attorney stating that

all legal requirements for final plat approval have been met. The CDD shall submit the application to the DRC and the ~~LDRB~~ PAB and will forward ~~their~~ all recommendations to the city council ~~as part of his report~~.

(c) *Review criteria.* The decision of the ~~LDRB~~ and city council on the final plat and drainage plan shall include the findings of fact that serve as a basis for its recommendation. In making its recommendation, the ~~LDRB~~ PAB shall consider the following factors as a minimum:

- [1] Degree of departure of the proposed plat from surrounding residential areas in terms of character and density.
- [2] Prevention of erosion and degradation of surrounding area.
- [3] Provision for future transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation.
- [4] The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed development.
- [5] The availability and adequacy of water and sewer service to support the proposed development.
- [6] The conformity and compatibility of the development with the comprehensive plan of the city.
- [7] The conformity and compatibility of the proposed primary residential and secondary nonresidential uses within the proposed development.

2. *Required exhibits.*

(a) *Final plat.* The final plat shall meet the platting requirements of Florida Statutes, Chapter 177, and the requirements of this section. In case of a large plat which may require two or more sheets, the sheets are to be numbered and the number of sheets are to be indicated on the first sheet below the title. Final plat shall be prepared by a registered land surveyor or professional engineer and shall show the following information:

- [1] Title, date, name and vicinity map showing the location of the subdivision and graphic scale.
- [2] Dedication by owner and completion of certificate of surveyor.
- [3] The rights-of-way and names of all streets and roads.
- [4] Lot lines and lot and block numbers.
- [5] Location and width of canals and waterways.
- [6] Reservations, easement, alleys and any areas to be dedicated to public uses or sites for other than residential use, with notes stating their purpose and any limitations.

- [7] Sufficient data to determine readily and reproduce on the ground, the location, bearing and length of every street line, lot line, boundary line and block line, whether curved or straight.
- [8] The radius, central angle, point of tangent, tangent distance, and arcs and chords of all curved streets and curved property lines.
- [9] An accurate legal description of the subdivision boundaries with bearings, distances, and tie point.
- [10] Accurate location and description of all monumentation and markers.
- [11] The names and locations of adjoining parcels, subdivisions and streets.

All dimensions shall be to the nearest one one-hundredth of a foot and angles to the nearest second, or datum plane approved the by city engineer.

- (b) Final engineering drawings for all improvements to be made on and off-site.
- (c) A streetlight plan approved by the city and the electric power company.
- (d) Certificate of title showing the applicant as owner.
- (e) Certified statement showing approval of all street names and inclusion in the 911 emergency response system. No street shall have the same name as any other street in the city.
- (f) The approval of said plat shall be subject to the subdivider guaranteeing the installations of said improvements through one of the following methods:
  - [1] Filing a performance, and labor and material payment bond by the developer or jointly by the developer and builder, in the amount of 110 percent of the estimated construction cost, or other acceptable forms of security, as determined by the city manager, for any unconstructed portions.
  - [2] Depositing or placing in escrow a certified check, cash, or acceptable pledge (such as an irrevocable letter or credit) in the amount of 110 percent of the construction cost as approved by the city. Having guaranteed the installation of the improvements the subdivider may install them after approval of final plat and either prior to or after recording it.

Any maintenance warranty bond, or performance bond shall be made from a company licensed as a surety in the State of Florida, listed by the U.S. Treasury Department and rated AAA in Best's Insurance Guide. Upon acceptance of all improvements by the city, the performance and payment bonds shall be

released, and the subdivider shall furnish the city with a maintenance warranty bond to cover the 12-month period following the date that the city accepts the improvements.

- (g) A bill of sale or other dedication instrument conveying to the city water and sewer utility lines, mains, lift stations, and other improvements required to be installed by these regulations.
  - (h) Instruments indicating that all necessary off-site easements or dedications have been acquired. In lieu of originals, "certified true copies" will be accepted if the recording information from the public records of Volusia County, Florida is included thereon.
  - (i) Deed restrictions/homeowner's association documents and other documents. A full and complete copy of the deed restrictions if any, shall be a required exhibit to the final plat. Such restrictions must be approved by the city council prior to recording of the plat. Said deed restrictions shall include a provision requiring the owners of property in the subdivision to notify and obtain the council's approval of any and all changes, amendments or alterations to the deed restrictions. Said deed restrictions shall provide an indexed mechanism to assess and/or fund any needed repairs, replacements, or maintenance of commonly held assets, including any public streets and/or joint parking areas.
  - (j) Inspection fee. A fee set by the city shall be paid to defray the cost of inspection by the city.
3. *Required improvements.* Approval of the final plat shall be subject to the subdivider installing the improvements hereinafter designated or having guaranteed, pursuant to this article, the installation of said improvements. The city shall be responsible for approving all plans and specifications for the required improvements, assuring adequate inspection of construction for compliance with the approved plans and specifications, for issuing a certificate of completion upon the acceptable completion of the work.
- (a) The required improvements shall consist of:
    - [1] Streets constructed pursuant to the design standard set forth in these regulations.
    - [2] Permanent reference points as required by Chapter 177, F.S. and as hereafter amended.
    - [3] Curb, gutter, bridge and related improvements required by these regulations.
    - [4] Sidewalks as required by these regulations. Sidewalks to be installed along each side of any street right-of-way or adjacent right-of-way abutting the subdivision.

- [5] Public sanitary sewer service and water distribution mains and lines to be installed to service all lots within the subdivision, as set forth in these regulations.
- [6] Storm drainage, water management, retention and detention improvements required by these regulations.
- [7] Landscaping and preservation as required by these regulations.
- [8] Utilities including electric power, telephone, cable television and natural gas to service all lots within the subdivision in compliance with this Code. All utilities shall be located under ground to the fullest extent feasible.

4. *Installation of required improvements.*

- (a) Any subdivider shall be required to install all of the required improvements within one year from the date the final plat is approved by the city council. The city council, for good cause shown by the subdivider, may extend the time for installation of the public improvements for a period not to exceed six months. When any subdivider requests an extension of time for installing the public improvements, the city shall review the amount on deposit or the method of guaranteeing to determine whether the initial estimate and deposit is then sufficient to install the required improvements. As a condition of any approval for extension of time, the city may require an additional amount guaranteeing the installation of the improvements.
- (b) The developer shall enter into a subdivision improvement agreement with the city in order to assure compliance with these regulations and the approved plans. Approval of the city council is required, and no subdivision work shall commence until this agreement has been executed.
- (c) In the event the subdivider fails to install the improvements within the above time periods, the city is authorized to take such action as is necessary to require the improvements to be installed by the subdivider or others. Said action may include the forfeiture of the bond, escrow funds, any other pledge held by the city, or court action to compel installation of the improvements. In the event the amount of the guarantee is not sufficient to pay the entire cost of installing the required improvements, the subdivider shall be liable to the city for the balance of the cost necessary to install them. In the event the city is required to initiate court action to enforce this provision, and the city is successful, the city shall be entitled to reimbursement



for its attorneys' fees and costs incurred in prosecuting that action.

- (d) Prior to acceptance of the public improvements by the city, the developer must provide a document from a Florida registered engineer, with his seal affixed, certifying that the improvements have been constructed in accordance with the approved plans and specifications.

#### **Sec. 6.4. Plat endorsement and recording.**

##### *A. Recording of final plat required.*

1. The final plat shall be recorded by the Volusia County Clerk of Circuit Court. After final plat approval by the city council, the CDD shall see that all requirements of Chapter 177, F.S. have been complied with before the plat is presented for recording to the Clerk of the Circuit Court of Volusia County. No plat of land within the corporate limits of the city shall be recorded by the clerk of the circuit court unless it shall have the approval of the city council inscribed thereon or endorsed in conformity with these regulations. One reproducible copy of the recorded plat shall be returned to the city clerk, the cost of which shall be borne by the subdivider.
2. Use of plat. The transfer of, sale of, agreement to sell, or negotiation to sell, land by reference to or exhibition of, or other use of a plat of a subdivision, or portion thereof, that has not been given final approval by the city council and recorded in the official records of Volusia County, Florida is prohibited. The description by metes and bounds in the instrument of transfer or other document shall not exempt the transaction from such prohibition.
3. The community development department shall not issue a building permit until all drainage, street and utility improvements have been installed and accepted by the city.

- ##### *B. Maintenance of dedicated areas until acceptance.* All facilities and improvements within any subdivision, as well as any required off-site improvements required as part of preliminary and/or final plat approval which are required to be dedicated for public use, shall be maintained by the owner of said subdivision in a clean, healthy and non-hazardous condition until such dedication and acceptance by the city has been made and for 12 months thereafter.

#### **Sec. 6.5. Variances.**

- ~~A. *Hardship.* Where the land development regulation board, upon recommendation from the director, finds that extraordinary hardships may result from the strict compliance with these regulations or the design standards for subdivisions, the LDRB may recommend to the city council, the varying of the regulations so that substantial justice may be done and the public interest secured; provided that such variations will not have~~

~~the effect of nullifying the intent and purposes of the adopted comprehensive plan or these regulations.~~

~~B. *Large scale development.* All requirements for master planning of large scale projects must be followed in order to receive approval for final plans. The standards and requirements of these regulations may be modified by the LDRB, with subsequent approval by the city council, in the case of a plan for a complete neighborhood unit, which, in the judgment of the LDRB, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when full developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan. In order for such considerations, plans and standards to be approved by the city council, they must be included in and governed by a legally adopted, enforceable development agreement between the city and the developer/owner.~~

**Sec. ~~6.5~~ 6.6. Conditions.**

In granting modifications, the ~~LDRB~~ PAB and city council may require such conditions as will, in their judgment, substantially achieve the objectives of the standards or requirements so modified.

**Sec. ~~6.6~~ 6.7. Final authority.**

The city council shall have the final authority to determine the application of all matters arising under the terms and conditions of this article.

**Sec. ~~6.61~~ 6.71. Penalty.**

All violations and penalties shall be handled under the general violations sections of the city code and state law.

**Sec. ~~6.7~~ 6.8. Subdivision design standards.**

A. *Blocks.*

1. The lengths, widths and shapes of blocks shall be determined with due regard to:
  - a) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
  - b) Zoning requirements as to lot sizes and dimensions.
  - c) Needs for convenient access, circulation, control and safety of street traffic.
  - d) Limitations and opportunities of topography.
2. Block lengths shall not exceed 1,800 feet, or be less than 400 feet.

B. *Lots.*

1. The size, width, depth, shape, orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
2. Lot dimensions shall conform to the requirements of the zoning regulations; and
  - a) Residential lots shall not be less than 75 feet wide nor less than 7,500 square feet in area.
  - b) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street service and parking facilities required by the type of use and development contemplated.
3. Corner lots for residential use shall have 15 percent extra width to permit appropriate building setback from and orientation to both streets.
4. Each lot shall have satisfactory access to a public street and shall abut a public street for a distance of at least 25 feet.
5. Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use. The bufferyard requirements found in Article V shall govern the extent and location of screening measures.
6. Side lot lines shall be substantially at right angles or radial to street lines.

C. *Easements.*

1. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten feet wide.
2. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith, except in the case of "finger canals."

D. *Public sites and open spaces.*

1. Where a proposed park, playground, school or other public use shown in a general community plan is located in whole or in part in a subdivision, the ~~LDRB PAB~~ may require recommend to the City Council that the dedication or reservation of such area within the subdivision in those cases in which it deems such requirement to be reasonable.
2. Where deemed essential by the ~~LDRB PAB~~, upon consideration of the particular type of development proposed in the subdivision, and especially in large scale

neighborhood unit developments not anticipated in the general community plan, the ~~LDRB~~ PAB may ~~require~~ recommend to the City Council that the dedication or reservation of such other areas or sites of a character, extent and location suitable to the needs created by such development for schools, parks and other neighborhood purposes.

E. *Alleys.*

1. Alleys may be provided in commercial and industrial districts, where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
2. The width of an alley shall be not less than 18 feet.
3. Alley intersections and sharp changes in alignment shall be avoided; but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
4. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead end, as determined by the CDD.

F. *Street names.* The developer or subdivider shall provide a list of all proposed street names to the city clerk (or other designated official) for approval into the county 911 emergency system. Written notice of such approval shall be attached to the application for final plat and maintained in the city's records. No street name shall be the same as that of any other street in the city.

G. *Potable water system.* The subdivision shall be provided with an adequate potable water system designed by a registered engineer and approved by the city ~~city engineer~~, and other agencies as may be required. The system shall be sized so as to provide adequate fire protection in compliance with the recommendation of the National Board of Fire Underwriters for the initial and final plans of the subdivision, and designed pursuant to South Daytona's standard details.

H. *Sanitary sewer system.* The subdivision shall be provided with a sanitary sewer collection system including interceptor sewers, lift stations and such appurtenances as to deliver the sewage to the sanitary sewer system of the city at a convenient point of connection. The sanitary sewer system shall be designed by a Florida registered engineer and approved by the Florida Department of Environmental Protection and the City Engineer.

I. *Streets/sidewalks.* All streets and sidewalks shall be built in accordance with Section 7.5 (Traffic/Parking Management) of this article and Section 8.3 (Streets and Sidewalks) of Article VIII (General Design Standards).

J. *Flag lots.* Flag lots may be approved by the CDD for a single-family home in all residential zoning districts. Each flag lot shall have a minimum frontage of 25 feet on a public street and useable access to the main body of the flag lot. In addition, the following requirements shall be applicable to flag lots created by this section:

1. A flag lot shall be a single parcel, tract or plot of land of one acre or larger, connected to a dedicated public street or a private way by a narrow stem of no less than 25 feet in width, which shall not be used to calculate the minimum lot area.
  2. Single access strips or double access strips shall be a minimum of 280 feet apart regardless of ownership.
  3. The access strip for each flag lot shall intersect a dedicated public street or private way at no less than a 60 degree angle for at least 100 feet from the street right-of-way.
  4. Flag lots shall not be used in major subdivisions or in existing platted subdivisions unless they meet the size and configuration standards for lots set forth in the zoning provisions.
  5. The CDD may approve the issuance of a building permit for a single-family dwelling on a flag lot with a minimum frontage of 20 feet, upon the submission of proof by the applicant that the deed for same was recorded on or before June 26, 1978.
  6. Section 7.5-A.2 of Article VII Access Control shall apply to flag lots; however there shall be a minimum requirement for each flag lot to connect to a public street. Two lots may share a common driveway.
- K. *Street trees.* The recommendations/findings of the South Daytona Streetscape Guidelines are incorporated herein by reference. All development shall be required to install "street" trees on roadways as defined therein. In addition to the trees required by the landscape provision, the developer/owner shall provide two "street" trees per lot. All street trees shall be located along the frontage of the lot.
- L. *Model homes.* A subdivision developer/owner may be allowed to place a model home in the subdivision for use as a sales office. It shall be similar in size and type to other homes proposed for the subdivision. It shall be of standard construction. No certificate of occupancy shall be issued for use as a dwelling, unless approved by the chief building official and the community development director.
- M. *[Augustine Flortam sod.]* The city shall require that the builder or lot owner of any new house in a new subdivision of more than five lots install St. Augustine Flortam sod (or equal, as determined by the chief building official) as the yard grass prior to initial occupancy. Other than otherwise landscaped areas, all open areas of the building lot must be fully and completely sodded (sprigging not acceptable).

**Sec. ~~6.8.6-9~~. Fee schedule for subdivision review, approval and inspection.**

The city is authorized to charge reasonable fees for subdivision review, approval and inspection. The schedule as outlined in chapter 21 of the city code is established for subdivision processing; it is to be applied for all subdivisions in excess of six lots; however, the concept plan review fee and/or plat review fee may be waived or a lesser fee charged for subdivisions of fewer than seven lots if, in the opinion of the community development

director, the simplicity of the case makes unreasonable the application of the regular fee schedule. Future changes in this fee schedule may be implemented by administrative order issued by the city manager upon his determination that the fees should be revised to accurately reflect the cost to the city or for other legitimate reasons.

## **ARTICLE VII. ENGINEERING/ENVIRONMENTAL STANDARDS**

### **Sec. 7.2. Floodplain management.**

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#### **G. *Variances and appeals.***

1. *Generally.* The ~~board of adjustments and appeals~~ Planning Advisory Board (PAB) shall hear and ~~decide~~ make a recommendation to the City Council on requests for appeals and requests for variances from the strict application of this section. Pursuant to F.S. § 553.73(5), the ~~board of adjustments and appeals~~ Planning Advisory Board (PAB) shall hear and ~~decide~~ make a recommendation to the City Council on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.
2. *Appeals.* The ~~board of adjustments and appeals~~ Planning Advisory Board (PAB) shall hear and ~~decide~~ make a recommendation to the City Council appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this section. Any person aggrieved by the decision of the ~~City Council~~ board of adjustments and appeals may appeal such decision to the circuit court, as provided by Florida Statutes.
3. *Limitations on authority to grant variances.* The ~~board of adjustments and appeals~~ City Council shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in subsection G.7, the conditions of issuance set forth in subsection G.8, and the comments and recommendations of the floodplain administrator and the building official. The ~~board of adjustments and appeals~~ City Council has the right to attach such conditions as it deems necessary to further the purposes and objectives of this section.
4. *Restrictions in floodways.* A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in subsection E.3.
5. *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings, upon a

determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

6. *Functionally dependent uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this section, provided the variance meets the requirements of subsection G.4, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.
7. *Considerations for issuance of variances.* In reviewing requests for variances, the ~~board of adjustments and appeals~~ City Council shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this section, and the following:
  - a. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
  - d. The importance of the services provided by the proposed development to the community;
  - e. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
  - f. The compatibility of the proposed development with existing and anticipated development;
  - g. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
  - h. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
  - i. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - j. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

8. *Conditions for issuance of variances.* Variances shall be issued only upon:
- a. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this section or the required elevation standards;
  - b. Determination by the ~~board of adjustments and appeals~~ City Council that:
    - (1) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
    - (2) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
    - (3) The variance is the minimum necessary, considering the flood hazard, to afford relief;
  - c. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and
  - d. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (~~up to amounts as high as \$25.00 for \$100.00 of insurance coverage~~), and stating that construction below the base flood elevation increases risks to life and property.

H. *Violations.*

1. *Violations.* Any development that is not within the scope of the Florida Building Code but that is regulated by this section that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this section, shall be deemed a violation of this section. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this section or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.
2. *Authority.* For development that is not within the scope of the Florida Building Code but that is regulated by this section and that is determined to be a violation, the



floodplain administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

3. *Unlawful continuance.* Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

### **Sec. 7.3. Stormwater management.**

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#### **E. Maintenance.**

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2. The systems maintained by the owner shall have adequate easements to permit the city engineer to inspect and, if necessary, to take corrective action should the owner fail to properly maintain the system. Before taking corrective action, the city engineer shall give the owner written notice of the nature of the existing defects. If the owner fails within 30 days from the date of notice to commence corrective action or to appeal the matter to the South Daytona ~~Board of Adjustments and Appeals~~ City Council, the city engineer may take necessary corrective action, the cost of which shall become a lien on the property until paid.

#### **F. Enforcement.**

4. *Notice of violation.* When the city engineer determines that development activity is not being carried out in accordance with the requirements of this section, he shall issued a written notice of violation to the owner of the property. The notice of violation shall contain:
  - f. A statement that the city engineer's determination of violation may be appealed to the South Daytona ~~Board of Adjustments and Appeals~~ City Council by filing a written notice of appeal within 15 days of service of the notice of violation.

### **Sec. 7.5. Traffic/parking management.**

#### **A. Roadways.**

2. *Access control.* The following regulations are established to promote the safety of vehicular and pedestrian traffic, minimize traffic congestion, promote roadside aesthetics and enhance the functional capacity of roads and highways within the city.
  - f. *Variances from this section.* Where the city engineer and the community development director concur that unique traffic engineering considerations

exist on a specific site, variances from this section may be administratively granted through the site plan review process, or at the time of building permit application for one- and two-family residences. However, if either the city engineer or the community development director objects to a proposed variance from this section, a variance request shall be formally presented to the ~~board of adjustments and appeals~~ City Council.

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B. *Parking control.*

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6. *Location of parking spaces.*

- c. Parking spaces for all other uses shall be provided on the same plot with the main building, or not more than 300 feet distant, as measured along the nearest pedestrian walkway, provided that there is legal permission for that use of such area. Except for multiple family uses, such parking area may be located as a matter of right in any adjacent residential district, provided that such parking area is adequately screened so as to prevent headlights from shining on residential properties and to minimize vehicular noise. Detailed plans for such parking in adjacent residential districts shall be presented to the ~~land development regulation board~~ Planning Advisory Board (PAB), which shall ~~have the right to make a recommendation to the City Council~~ to impose such regulations or conditions, including, but not limited to, screening to prevent headlights from shining on residential properties and to minimize vehicular noise, as it may deem appropriate for the protection of residential properties. Lots adjacent to a development in either a commercial or residential district may be used by right for parking under the following conditions:

- [1] The lot is contiguous;
- [2] The lot is owned/or under control by the owner of the primary use property or the owner has a legally binding agreement to so use it.
- [3] All requirements for screening and buffering are met.

The applicant for a building permit which proposes to use an area for required off-street parking on a lot remote from the principal use, shall submit evidence of a restrictive covenant running with the land to be used for off-street parking purposes stating that such land shall not be encroached upon, used, leased, or conveyed for any other purpose until such time as the principal building ceases to be required to provide such off-street parking facilities.

## ARTICLE VIII. GENERAL DESIGN STANDARDS

### Sec. 8.1. Landscape provisions.

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- C. *Landscape permit requirements.* Prior to the development or expansion of any vehicular use area or commercial property, application shall be made to the community development department for the approval of a site plan pursuant to Article III. Approval shall be issued by the community development department after review and ~~determination~~ comments by the development review committee (DRC) that the plan meets the requirements of this Code.

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### Sec. 8.2. Sign regulations.

F. *General.*

9. *Lighting generally.*

- b. Neon. Use of neon signs and decorative neon on signs for increased visibility shall be permitted, except that exposed (unshielded) neon shall be prohibited in residential zones.

(4) The neon plan must be approved by the ~~board of adjustment and appeals~~ City Council after the board receives staff input and before a permit may be issued.

G. *Permitted signs.*

2. *Non-residential district signs.*

b. *Freestanding signs (ground or pole signs).*

(9) Notwithstanding any other provisions of this Code, freestanding signs within the boundaries of the Ridgewood Redevelopment District (CRA) shall be "ground signs" (i.e. "monument signs") as defined in this Code ~~unless a hardship variance is obtained from the board of adjustment and appeals.~~ All "non-ground" freestanding signs installed prior to the effective date of this provision shall be allowed to continue to exist until one of the following events occurs—after which such signs must be promptly removed: (1) a period of ten years goes by after the date that this article takes effect (this is also known as an "amortization period"); (2) the sign is damaged to the extent of 50 percent or more of its assessed value as determined by the Volusia County Property Appraiser; (3) the sign deteriorates to the extent that its assessed value, as determined by the Volusia County Property Appraiser, has been reduced to 25 percent or less of its replacement cost; or (4) the sign is being replaced with

another freestanding sign. Ordinary repair and maintenance shall be allowed on existing "non-ground" signs.

## **CODE OF ORDINANCES**

### **Chapter 3.5 Amusements and Entertainments**

#### **Sec. 3.5-83. Variances.**

The city's ~~board of adjustments and appeals~~ Planning Advisory Board (PAB) is ~~authorized to approve~~ will make a recommendation to the City Council for a variance from the distance and zoning requirements of this code [article], pursuant to the procedures and criteria established for other variance requests as set forth in the consolidated land development regulations of the city; however, no variance shall allow an adult entertainment establishment in any zoning district other than light industrial.

### **Chapter 5 Buildings, Housing and Structural Regulations**

#### **Sec. 5-4. Appeals authorized; initiation.**

Appeals to the ~~board of adjustments and appeals~~ City Council may be taken by any person, officer, bureau or agent of any public body affected by any decision of the chief building official in accordance with the same procedures as are provided for appeals in zoning matters. Such appeals shall be made within thirty (30) days after a decision by the chief building official by filing with the chief building official a notice of appeal to the ~~board of adjustments and appeals~~ City Council, and specifying the grounds thereof. The chief building official shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

#### **Sec. 5-20. Adoption.**

The Florida Building Code ~~and excepting chapter 1, administration,~~ as referenced in F.S. Ch. 553.73, (or any successor provision) including all codes incorporated therein and including all revisions which may from time to time be made by administrative rules promulgated by the Florida Building Commission pursuant to F.S. Ch. 553 is hereby adopted as the building code of the city, to apply to the corporate areas of the City of ~~s~~South Daytona, and this adoption shall supersede any and all previous adoptions of the Florida Building Code Editions, or any amendments thereto. A copy of the Florida Building Code, current edition, composed of multiple main volumes and including all referenced appendices, to be filed in the office of the city clerk and shall be available for public inspection during the regular business hours of such office.

#### **Sec. 5-21. Model administrative code. Reserved.**

~~The Building Officials Association of Florida Model Administrative Code for the 2007 Florida Building Code, current final draft and subsequent final drafts for future editions of the Florida Building Code, is adopted in its entirety. A copy shall be filed in the office of the~~

~~city clerk and shall be available for public inspection during the regular business hours of such office.~~

**Sec. 5-218. Retrofit of existing properties.**

All existing commercial properties where the business has been closed, i.e. where a lawfully permitted business is not conducting the normal standard operations of such a business, for a period of six (6) months or more shall be required to be brought up to current code requirements for the property characteristics listed below before another local business tax receipt may be issued by the city, irrespective of whether change of use is involved or the property has been sold or transferred. The mere fact that an occupational license has been issued for the subject site shall not be determinative of whether or not the business is actually conducting operations, since an occupational license merely grants permission to operate a specific business; it (the occupational license) shall not, in itself, constitute sufficient evidence that the business is actually operational. If it appears to be physically or economically impractical to bring the property completely up to the code standard for any specific item, a variance for more limited compliance may be sought from the ~~board of adjustments and appeals~~ City Council.

**Sec. 5-282. Appeal.**

Any person aggrieved by any order of the city manager may appeal to the ~~board of adjustments and appeals~~ City Council which retains the power to alter, modify, or change any of the requirements of this article upon good cause being shown.

**Sec. 5-284. Amendment to bulkhead line.**

One copy of each request shall be sent to the city engineer and one to the ~~planning and zoning board~~ City Council for review and approval. ~~Each shall act upon the request within sixty (60) days.~~

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- (c) Following review by the ~~planning and zoning board~~ Planning Advisory Board (PAB) and the city engineer, each shall report its recommendations to the city clerk, who shall submit the request, with the recommendations, to the city council.
- (d) After receipt of the request by the city council, with the recommendations of the ~~planning and zoning board~~ Planning Advisory Board (PAB) and the city engineer, a public hearing shall be held by the city council upon any proposal for a change in any bulkhead line or lines. Any such proposal for a change shall be published once each week for three (3) consecutive weeks in a newspaper of general circulation published in Volusia County, Florida; copies of such notice by certified or registered mail shall be sent to each riparian owner of upland lying within one thousand (1,000) feet of the location of the property proposed to be changed, addressed to such owner as his name and address appears upon the latest county tax assessment roll, and the publication of such proposal shall include therein the time, date and place for such public hearing.

**Sec. 5-304. Statement of purpose.**

- (a) The provision of adequate recreational space and facilities is an integral part of the city's plan for enhancing the health and general welfare of its citizens. The city council desires to fund recreational facilities necessitated by new growth through the accepted practice of impact fees on new development. The city council, in conjunction with the ~~land development regulation board~~ Planning Advisory Board (PAB) and the recreation advisory board, have carefully considered the future recreational needs of the city.

**Chapter 10.5 Parks and Recreation**

**Sec. 10.5-18. Duties.**

The parks, recreation, and ADA advisory board shall review and make recommendations to the city council with respect to the following:

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- (e) To review and make recommendations to the ~~planning and appeals board~~ Planning Advisory Board (PAB), and the city council with respect to matters of mutual interest when so requested by another board or the council.

**Sec. 10.5-19. - Designation of planning advisory and appeals board to perform duties.**

As an alternative to sections 10.5-16, 10.5-17 and 10.5-17.1, the City Council may, by resolution, designate the ~~Planning and Appeals Board~~ Planning Advisory Board (PAB) to perform the duties of the Parks, Recreation, and ADA Advisory Board as set forth in section 10.5-18. Such designation may be rescinded by resolution of the City Council.

**Chapter 12 Planning and Development**

**Sec. 12-4. Local agency designated.**

Pursuant to Florida Statutes, Section 163.3167, the ~~land development regulation board~~ Planning Advisory Board (PAB) of the city (hereinafter referred to as the agency) is hereby designated as the local planning agency.

**Chapter 14 Streets, Sidewalks and Other Public Places**

**Sec. 14-39. Appeal.**

Any property owner aggrieved by any action or decision of the city manager or his designee under this article shall have a right of appeal to the South Daytona ~~Board of Adjustment and Appeals~~ City Council. Any such appeal must be filed within fifteen (15) days of any such action or decision of the city manager or his designee or within fifteen (15) days of the property owner's receipt of a notice of violation, whichever occurs later. A property

owner wishing to appeal shall file a written notice of appeal stating the specific grounds for the appeal with the South Daytona ~~Board of Adjustment and Appeals~~ City Council.

**Sec. 14-75. Appeals.**

- (a) Final, written decisions of the public works director, including but not limited to, a decision suspending, revoking, or denying a permit, or imposing costs or a fine, are subject to appeal to the ~~city board of adjustment and appeals~~ City Council. Appeals must be submitted within thirty (30) days, by filing a written notice of appeal with the city clerk and providing a copy to the public works director. Any appeal not timely filed shall be waived. The notice of appeal shall state the decision which is being appealed, the grounds for appeal, a brief summary of the relief which is sought, and shall be accompanied by a nonrefundable fee to be established by the public works director. The ~~city board of adjustment and appeals~~ City Council may affirm, modify or reverse the decision of the public works director. The public works director shall notify any party who has filed a written request for such notification of the date when the matter will be presented to the ~~city board of adjustment and appeals~~ City Council.
- (b) An appeal from a decision of the ~~city board of adjustment and appeals~~ City Council may be appealed to the city council within thirty (30) days, by filing a written notice of appeal with the city clerk and providing copies to the city manager and city attorney. Any appeal not timely filed shall be waived. Nothing contained herein shall preclude the city council from seeking additional information prior to rendering a final decision. The decision of the city council shall be by resolution and a copy of the decision shall be forwarded to the city manager and the appealing party. Within the time prescribed by the appropriate Florida Rules of Appellate Procedure, a party aggrieved by a decision of the city council may appeal an adverse decision to the Circuit Court in and for Volusia County or applicable federal district court. The party making the appeal shall be required to pay to the city clerk a fee to be established by administrative order of the city manager, to defray the costs of preparing the record on appeal.

**Sec. 14-106. Permit application requirements and review procedures.**

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- (c) *Application review and procedures for small wireless facilities and utility poles for collocation of small wireless facilities.*

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(5) Appeals.

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- b. An appeal from a decision of the city manager may be appealed to the ~~city board of adjustment and appeals~~ City Council within thirty (30) days, by filing a written notice of appeal with the city clerk and providing copies to the city manager and the city attorney. Any appeal not timely filed shall be waived. The notice of appeal shall state the decision which is being appealed, the grounds

for appeal, a brief summary of the relief which is sought, and shall be accompanied by a nonrefundable fee to be established by administrative order of the city manager. The ~~city board of adjustment and appeals~~ City Council may affirm, modify or reverse the decision of the city manager. The city manager shall notify any party who has filed a written request for such notification of the date when the matter will be presented to the ~~city board of adjustment and appeals~~ City Council.

- ~~c. An appeal from a decision of the city board of adjustment and appeals may be appealed to the city council within thirty (30) days, by filing a written notice of appeal with the city clerk and providing copies to the city manager and city attorney. Any appeal not timely filed shall be waived. Nothing contained herein shall preclude the city council from seeking additional information prior to rendering a final decision. The decision of the city council shall be by resolution and a copy of the decision shall be forwarded to the city manager and the appealing party. Within the time prescribed by the appropriate Florida Rules of Appellate Procedure, a party aggrieved by a decision of the city council may appeal an adverse decision to the Circuit Court in and for Volusia County or applicable federal district court. The party making the appeal shall be required to pay to the city clerk a fee to be established by administrative order of the city manager, to defray the costs of preparing the record on appeal.~~

## Chapter 16 Taxation

### Sec. 16-19. Local business tax receipt prerequisites.

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(14) *Home local business tax receipts.*

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- f. Prior to issuance of a home local business tax receipt, any occupation that is deemed by staff to be questionable in nature or that is likely to involve more than telephone, computer, or mail business transactions may be referred to the ~~land development regulation board (LDRB)~~ Planning Advisory Board (PAB), which will conduct a public hearing according to its established rules. After the public hearing, the ~~LDRB~~ PAB will forward its recommendation to the city council for a final determination.

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- y. The status of any home occupation, as provided for in this paragraph, may, for good cause, be reviewed by the ~~LDRB~~ PAB at any time following the approval of such use by the city, and the city council may, for good cause, revoke the home local business tax receipt at any time after the ~~LDRB~~ PAB review.



## Chapter 20 Water and Sewer Service

### **~~Sec. 20-157. Variances from requirements.~~**

- ~~(a) The board of adjustment may grant a variance from requirements of this article if exceptional circumstances applicable to a site exist such that adherence to the provisions of this article will result in unnecessary hardship and will not fulfill the intent of this article.~~
- ~~(b) A written request for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, why a variance should be granted. The request shall include all information necessary to evaluate the proposed variance.~~
- ~~(c) The board of adjustment will conduct a review of the request for a variance and may approve, deny, or request additional information concerning the variance request.~~



## Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

### Proposed ordinance’s title/reference:

**Ordinance No. 2024-05.** An Ordinance of the City of South Daytona, Florida, amending the South Daytona Land Development Code, Article II. Definitions, Article III. Administration and Enforcement, Article IV. Consistency and Concurrency, Article V. Zoning Regulations, Article VI. Subdivision Requirements, Article VII. Engineering/Environmental Standards, and Article VIII. General Design Standards; Amending the South Daytona Code of Ordinances, Chapter 3.5 Amusements and Entertainments, Chapter 5 Buildings, Housing and Structural Regulations, Chapter 10.5 Parks and Recreation, Chapter 12 Planning and Development, Chapter 14 Streets, Sidewalks and other Public Places, Chapter 16 Taxation, and Chapter 20 Water and Sewer Service; renaming the Land Development Regulation Board, Planning and Appeals Board and Board of Adjustments and Appeals as the Planning Advisory Board (PAB); Clarifying and revising the role of the Planning Advisory Board as an appointed advisory board to make recommendations to the City Council; revising PAB membership criteria and terms of office, clarifying and revising the roles of the Development Review Committee, Community Development Director, and City Manager concerning development decisions; making related revisions concerning development decisions and permits; and providing for administrative actions, codification, conflicts, severability, and an effective date.

### Applicable Exemptions:

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;

- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
  - Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
  - Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
  - Section 553.73, Florida Statutes, relating to the Florida Building Code; or
  - Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

**Business Impact Estimate:**

**The City hereby publishes the following information:**

- 1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):**

The proposed Ordinance amends the South Daytona Land Development Code, Article II. Definitions, Article III. Administration and Enforcement, Article IV. Consistency and Concurrency, Article V. Zoning Regulations, Article VI. Subdivision Requirements, Article VII. Engineering/Environmental Standards, and Article VIII. General Design Standards.

The proposed Ordinance also amends the South Daytona Code of Ordinances, Chapter 3.5 Amusements and Entertainments, Chapter 5 Buildings, Housing and Structural Regulations, Chapter 10.5 Parks and Recreation, Chapter 12 Planning and Development, Chapter 14 Streets, Sidewalks and other Public Places, Chapter 16 Taxation, and Chapter 20 Water and Sewer Service.

The proposed Ordinance renames the Land Development Regulation Board, Planning and Appeals Board and Board of Adjustments and Appeals as the Planning Advisory Board (PAB). This includes clarifying and revising the role of the Planning Advisory Board as an appointed advisory board to make recommendations to the City Council. There is a revision of PAB membership criteria and terms of office as well as a clarification and revision to the roles of the Development Review Committee, Community Development Director, and City Manager concerning development decisions. As well as making related revisions concerning development decisions and permits.

- 2. An estimate of the direct economic impact of the proposed ordinance on**

private, for-profit businesses in the municipality, including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:

None.

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:

None.

- (c) An estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:

None.

3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:

None.

4. Additional information the governing body determines may be useful (if any):

None.

**Note:** The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.