

Chapter 6 BOATS, DOCKS AND WATERWAYS*

*Cross reference(s)--Building regulations, Ch. 7; boats fleeing or attempting to elude law enforcement officer, <sec> 15-28; unauthorized use of boat or boat motor, <sec> 15-34; zoning, Ch. 26; abandoned watercraft, <sec> 26-8(2); live-aboard boats, houseboats and other watercraft, <sec> 26-8(17); waterfront property, <sec> 26-9(9)

State law reference(s)--Beach and shore preservation, F.S. Ch. 161; tidal lands and bulkheads, F.S. <sec> 253.12 et seq.; depositing material in tidewater, F.S. <sec> 309.01; boat registration and safety, F.S. <sec> 371.011 et seq; oceanography, conservation and geology, F.S. Ch. 369 et seq.

ARTICLE I. IN GENERAL

Sec. 6-1. Authority of City to regulate waterways.

The City shall have the right to regulate the use of all waterways within the City limits and the conduct of all persons using same, consistent with and not in conflict with federal or state regulations. All ordinances of the City regulating the conduct of persons on land, shall apply to persons using waterways, insofar as same are properly applicable.

Sec. 6-2. Rights of City on property abutting public waterways.

- (a) Whenever a public street or thoroughfare is laid out or existing in the City abutting or touching a waterway open to public use, the City, as trustee for the public, has and owns riparian rights at such place where such public street or thoroughfare abuts or touches the waterway. The City shall have the right to regulate the use of the water adjacent to such place, and to construct docks, public landings, piers or wharves at such places.
- (b) Wherever a street laid out and existing in the City ends at a waterway in the city the portion of such dead-end street abutting the waterway is hereby declared to be public property, and the City shall have the right to regulate the use of the waters adjacent to such place and to construct docks, public landings, piers or wharves at such place.
- (c) When any plat is filed for record showing streets dedicated to public use laid out, touching or abutting any waterways used by the public, it is hereby declared that the portion of such dedicated street touching or abutting upon waterways in the City shall be public property, and the City shall own and hold same for the use of the public, and shall pass rules and regulations governing the use of same.

Sec. 6-3. Boats to observe health and sanitation rules of City; disorderly conduct, etc., on boats.

- (a) All boats or vessels docked, moored or tied to land, docks, piers or wharves abutting the public waterways in the City shall observe all the health and sanitary regulations of the City and all ordinances of the City relating to the conduct of persons and prohibiting acts contrary to public health, morals, safety or public peace, including ordinances prohibiting disorderly conduct and loud and boisterous noises which disturb the peace of the neighborhood.

- (b) No person shall discharge or drain any waste or other fluids from any boat or vessel at the Laishley Park Municipal Marina except within areas designated for such purposes.

(Ord. No. 1467-07, <sec> 1, 2-21-07)

Sec. 6-4. Careful and prudent operation; speed of boats.

- (a) Every person operating or navigating any boat or watercraft in, on, or under any waters within the City shall do so in a careful and prudent manner, taking into consideration the weather conditions and range of visibility, water turbulence, proximity to bathers, water skiers and other boats and watercraft, and all other attendant circumstances, so as not to endanger the life, limb or property of any person. Failure to operate a boat or other watercraft in such a careful and prudent manner shall constitute careless boating and a violation of the City Code.
- (b) No person shall operate a boat or watercraft in any creek, canal, arm of the harbor, boat harbor, anchorage, docking area or marina in a careless manner or any manner such as to produce a wake capable of causing damage to other boats, docks, seawalls, shorelines or other property by wash or erosion.
- (c) No person shall operate a boat or watercraft of any kind which is propelled by a motor or engine in violation of any posted regulatory marker.
- (d) Nothing contained in this section shall be construed to authorize or approve any speed greater than is reasonable and proper in consideration of local conditions, other water traffic, persons swimming or fishing in the area, or other hazards.
- (e) The operation underway of any boat being propelled by machinery while any portion of the anatomy of any person riding said boat extends outboard of the hull of said boat topsides is hereby prohibited and such operation shall constitute a violation of the City Code of Ordinances.

(Ord. No. 456, <sec> 1, 4-1-75; Ord. No. 467, <sec> 1, 9-3-75; Ord. No. 918-88, <sec> 1, 8-3-88; Ord. No. 1635-10, <sec> 1, 5-5-10)

Editor's note--Ord. No. 467 amended <sec> 6-4 by adding subsection 6-4A, which has been redesignated as a paragraph (e) at the editor's discretion.

Cross reference(s)--Reckless or negligent operation of vessel, <sec> 6-20.

Sec. 6-5. Depositing effluvia, refuse, etc., in waters.

No person shall throw, place or deposit or cause to be thrown, placed or deposited, any effluvia, refuse, or by-products of decaying animal or vegetable matter in any of the canals, waterways, ditches or water reservoirs in the City so as to be a nuisance or injurious or detrimental to the health or comfort of any residents of the City.

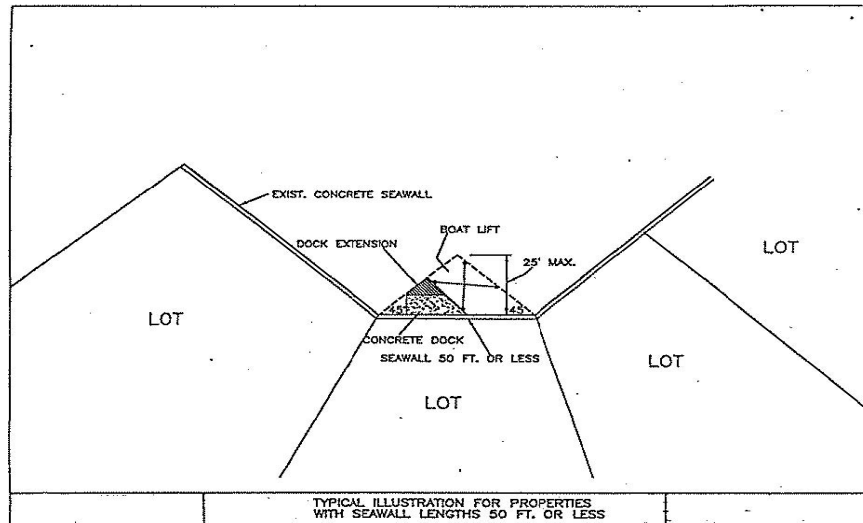
State law reference(s)--Deposit of waste from mines, F.S. Ch. 533; contaminating fresh waters, F.S. <sec> 372.85.

Sec. 6-6. Construction in waterways.

- (a) Permit required. It shall be unlawful to place any dock, pier, post, piling, bulkhead, seawall, boat lift, or any other structure of any nature, or to dredge in any waterway, without first obtaining a permit therefore from the Code Compliance Division, R.O.W. Permitting Section or the City Council, as provided herein. For the purposes of this section, a boat lift shall be defined to include a boat lift, davit, elevvert and shall also include a floating lift meeting the definition and criteria established in subsection 6-6(k). All such construction shall be in conformance with the City of Punta Gorda Subdivision Regulations Construction Specifications, as amended from time to time by the City Council. The Code Compliance Division, R.O.W. Permitting Section may only issue such permits as are authorized in subsections (c), (d) and (e), below. The location or construction of any other structure and any dredging not permissible by the Code Compliance Division, R.O.W. Permitting Section, shall require a special permit from the City Council, as set out in subsection (j) below.
- (b) Establishment of centerline of waterway. The centerline of a platted canal shall be established as one-half (1/2) the total width of the waterway, as determined by a licensed professional land surveyor, licensed by the State of Florida.
- (c) Permitted construction; platted canals dedicated to the public. The Code Compliance Division, R.O.W. Permitting Section is delegated the authority to issue permits in accordance with submitted plans for construction in platted canals which have been dedicated to the public for the following structures in compliance with the following requirements and limitations based on the zoning of the abutting upland property:
 - 1. Single Family Residential on lots having at least 85 feet of seawall:
 - (a) Concrete seawalls, similar in design, height, and appearance to those on adjoining lots;
 - (b) Freestanding concrete docks protruding no more than ten (10) feet waterward from the seawall, and
 - (c) i. a boatlift and up to three (3) outpilings, or
 - ii. up to six (6) outpilings, or
 - iii. two (2) boat lifts, provided said boat lifts are separated by a distance which is the lesser of 50 feet or the maximum distance necessary to keep both boat lifts within the 45 degree rule per subsection 6-6(c)4.
 - 2. Multi-Family Residential on lots having at least 85 feet of seawall:
 - (a) Concrete seawalls, similar in design, height and appearance to those on adjoining lots.
 - (b) Freestanding concrete docks protruding no more than ten (10) feet waterward from the seawall.

- (c) i. On lots having a canal width of less than 120 feet:
 - a. A boat lift and up to three outpilings, or
 - b. up to six (6) outpilings, or
 - c. two (2) boat lifts, provided said boat lifts are separated by a distance which is the lesser of 50 feet or the maximum distance necessary to keep both boat lifts within the 45 degree rule per subsection 6-6(c)4.
 - ii. On lots having a canal width of 120 feet or greater, in lieu of those items allowed in (c)i a-c above:
 - a. Freestanding concrete finger docks a minimum of four (4) feet in width protruding no more than twenty-five (25) feet waterward from the seawall.
 - b. Finger docks shall be separated by a minimum of twenty-seven (27) feet in width.
 - c. Boat slips, with or without boat lifts, provided the number of boat slips (and boat lifts) shall not exceed the number of units being constructed. If the number of units being constructed is an odd number, the number of boat slips and boat lifts may exceed the number of units by one slip.
 - d. Up to three (3) bumper piles per individual slip or shared slips, provided bumper piles are within the 45 degree rule per subsection 6-6(c)4.
 - e. Areas currently permitted with finger docks are allowed to install boat lifts at permitted slips provided they are no more than twenty-five (25) feet waterward of the seawall and within the forty-five (45) degree angle area pursuant to subsection 6-6(c)4.
3. Single Family and Multi-Family Residential on lots with less than 85 feet of seawall length:
- (a) Concrete seawalls, similar in design, height and appearance to those on adjoining lots;
 - (b) Freestanding concrete dock protruding no more than ten (10) feet waterward from the seawall, and
 - (c) i. one (1) boat lift, or
 - ii. up to three (3) outpilings.
 - (d) on lots with 50 feet or less of seawall, in addition to the improvements allowed in subsection (3(b)) above, an approved extension as depicted below, to aid in the

boarding of a vessel, may extend up to twenty-five (25) feet waterward of the seawall within the forty-five (45) degree angle are pursuant to subsection 6-6(c)4.



4. The foregoing improvements must be placed within an area defined by projected lines extending waterward at a forty-five (45) degree angle from the property's seawall at the side property lines, not to exceed twenty-five (25) feet waterward from the seawall, nor encroach within twenty-five (25) feet of the established centerline of the waterway except:
 - a. In waterways where the width is less than one hundred (100) feet, or in waterways not seawalled, or where only one side of the waterway is seawalled; structures will be placed so as not to exceed ten (10) feet waterward provided a passageway of fifty (50) feet can be maintained for navigation purposes, except in Burnt Store Isles Subdivision (PGI Section 15) on waterways where only one side of the waterway is seawalled a passageway of only forty (40) feet is required to be maintained. Encroachment by use of or mooring a vessel into the required passageway is prohibited except temporarily for loading and unloading passengers and other activities done in attendance of a vessel. The required passageway is measured from the outmost structure waterward to the limit of unobstructed waterway; and
 - b. In Ponce De Leon Inlet no structures will be permitted within ten (10) feet of either side of rip-rapped areas or abutting rip-rapped areas; and
 - c. In Pompano Inlet, Bass Inlet and Tarpon Inlet (as more fully described below) structures will be placed so as not to exceed twenty (20) feet waterward of the seawall nor encroach within thirty (30) feet of the established centerline of the waterway of the following described portions of:
 1. Pompano Inlet: Abutting Lot 17, Block 90, Section 10 and Lots 6 through 17, Block 10, Section 4, Punta Gorda Isles Subdivisions; and
 2. Bass Inlet: Abutting Lots 17 and 18, Block 87, Section 9, and Lots 21 through 25, Block 87, Section 9, Punta Gorda Isles Subdivision; no structures will be allowed on the southwest side of Bass Inlet bridge waterway at Lot 1, Block 110, Section 9B, Punta Gorda Isles Subdivision; and
 3. Tarpon Inlet: Abutting Lots 2 through 13, Block 15; Lots 7 through 9, Block 16; Lots 7 through 9, Block 17; Lots 7 through 9, Block 18; Lot 6 and Lots 9

through 56, Block 19; Lots 23 through 39, Block 20; Lots 1 through 15, Block 41; and Lots 1 through 11, Block 42; all in Sections 2, 3, 4 and 6, Punta Gorda Isles Subdivisions.

d. Boat Lifts and Davits required in Burnt Store Isles Subdivision

1. Any new dock or slip to be constructed within the Burnt Store Isles Subdivision (PGI Section 15) where any boat is to be berthed on a long-term basis shall be equipped with a boat lift or other device to keep such boats out of the water when not in use. The expansion or replacement of any existing dock shall not be considered to be a new dock or slip for purposes of this Section.
2. Any boat berthed in a required boat lift or other device must be kept out of the water when not in use.
3. For the purposes of this Section, the term "long-term basis" shall mean any boat berthed in the dock or slip in excess of thirty (30) days in a rolling twelve (12) month period.
4. New docks or slips where boats are not to be berthed on a long-term basis shall not be required to be equipped with boat lifts or similar devices. However, applicants for permits to construct or create new docks or slips where boats are not to be berthed on a long-term basis will be required to record in the Public Records of Charlotte County, Florida a restrictive covenant stating that until a boat lift or similar device is installed at the subject property, boats may not be berthed at said property on a long-term basis. Failure to abide by a recorded restrictive covenant prohibiting long-term berthing shall be considered a violation of the City's Code.
5. Existing docks or slips which are not equipped with a boat lift or similar device as of the effective date of this Section shall be grandfathered, i.e. such docks or slips shall not be required to be equipped with a boat lift or similar device.

(d) Permitted construction; other waterways. In waterways other than platted canals dedicated to the public, the Code Compliance Division, R.O.W. Permitting Section is delegated the authority to issue permits for freestanding concrete or wooden docks no more than five (5) feet in width,

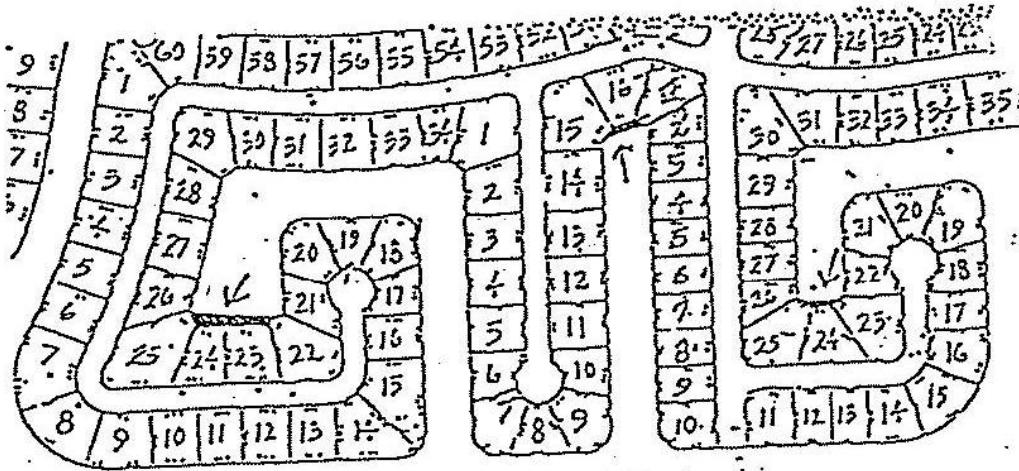
- (i) a boat lift and up to three (3) outpilings, or
- (ii) up to six (6) outpilings, or
- (iii) two (2) boat lifts.

The foregoing are permitted in accordance with the following criteria, provided that the property for which any such structure is requested does not have frontage on a platted canal dedicated to the public:

- (1) Docks may only extend waterward from the seawall or mean high water line far enough to reach a water depth of three (3) feet at mean low water, but in no event may any dock extend more than eighty (80) feet from the seawall or mean high water line. All mooring pilings must be placed as close as reasonably possible to the permitted dock.

- (2) Docks must be located as near as possible to the center of the lot or parcel of land for which they are permitted and shall be constructed as near perpendicular as possible to the seawall or shoreline. At the end of the dock, there may be a "T"- or "L"-shaped extension, but such extension shall not exceed twenty (20) feet in length, or eight (8) feet in width.
 - (3) Contiguous lots or parcels of land may be combined in one application for purposes of obtaining a dock permit, provided that, if such lots or parcels are under separate ownership, a joint use and maintenance agreement requiring contributions for maintenance and repairs and providing a means for enforcing such requirement, in such form as may be approved by the City Attorney, must be executed by all owners and recorded on the public records of Charlotte County. If such lots or parcels are under common ownership, an irrevocable restrictive covenant, executed by all owners and in such form as may be approved by the City Attorney, shall be recorded on the public records of Charlotte County; such covenant shall prohibit a transfer of ownership of only a portion of the property unless a joint use and maintenance agreement is approved by the City Attorney and recorded. If a permit for a dock is obtained for two or more contiguous parcels of land, the dock shall either be placed on a lot line or centered as near as possible on the combined lots or parcels. For joint use docks, the number of permitted pilings shall be doubled.
 - (4) When adjacent to a seawall, any dock shall allow access to the seawall for maintenance purposes. Dock flooring shall be no more than five (5) feet above mean high water level.
 - (5) No structure may impede the public's right of passage along the area of a shoreline between the mean high water line and mean low water line.
- (e) Maintenance Dredging. The Code Compliance Division, R.O.W. Permitting Section is delegated the authority to issue permits for maintenance dredging of material from any waterway as may be required to enhance navigation, provided such maintenance dredging shall not disturb the integrity of any existing or proposed structures.
 - (f) In conjunction with permitted structures, moored vessels shall not extend into the navigable channel, herein defined as a passageway consisting of twenty-five (25) feet on each side of the centerline of the canal or waterway; except that, in Snook Inlet, moored vessels shall not extend into the navigable channel, herein defined as a passageway consisting of twenty (20) feet on each side of the centerline of the waterway.
 - (g) In Burnt Store Isles, moored vessels shall not extend beyond thirty (30) feet waterward from the seawall at the end of the canal.

- (h) In Punta Gorda Isles, moored vessels shall not extend beyond thirty (30) feet waterward from the seawall at the end of the canal when the overall width of the canal is between 100 feet and 125 feet; and thirty-five (35) feet when the width of the canal is greater than 125 feet. The end of canal is typically that area at the dead end of the canal between seawall angle breaks, or as designated by the city engineer. Example end canal areas follow:



- (i) Permit fee. The fee for issuance of any permit under this section shall be as set forth in Section 7-33 of the City Code of Ordinances.
- (j) Procedure for petition and granting of a special permit for any structure or dredging in a platted canal dedicated to the public, which the Code Compliance Division, R.O.W. Permitting Section is not authorized to approve whether for new or existing construction.
- (1) Petition. Owners of lands abutting any platted canal dedicated to the public or their designated agents may petition the City in writing, through the Director of the Public Works Department, for a special permit to dredge or to construct or locate a structure not permissible by the Director of the Public Works Department under subsections (a), (c) and (e) above. The petition shall identify the requirements or limitations of subsections (a), (c) and (e), above, with which the proposed construction or dredging does not comply.
 - (2) Fee. The fee for a petition for such special permit is as set forth in Section 7-33 of the City Code of Ordinances.
 - (3) Public notice. Upon receipt of a petition for such special permit by the Director of the Public Works Department, a notice describing the nature and location of the special permit requested, the land owner's name and, if applicable, the owner's agent's name, shall be published one (1) time in a newspaper of general circulation published in Charlotte County, Florida, and mailed to the owners of parcels within 150 feet of the subject parcel at least fifteen (15) days prior to presentation of the petition for special permit to the appropriate canal

maintenance assessment district advisory committee, if any, and at least thirty (30) days prior to a public hearing by the Punta Gorda City Council. If the special permit is requested for a structure, excavation or dredging in a platted canal within a canal maintenance assessment district, the petition shall be considered by said district's advisory committee, for recommendation to the City Council. Failure to strictly comply with these notice requirements shall not invalidate the proceedings.

- (4) Advisory committee recommendation. After hearing a petition for special permit, together with such other reports or testimony as may be deemed pertinent, a canal maintenance assessment district advisory committee may recommend to the Punta Gorda City Council approval or denial of the petition for special permit. If the advisory committee recommends denial of the petition, it should specify any ways or means or respects in which it considers that the granting of the special permit would not be in harmony with the general intent and purpose of section 6-6(c); would be injurious to the waterway involved; would impede safe navigation; would allow a structure or use aesthetically or functionally incompatible with existing structures or uses on surrounding lands; would permit a structure or activity that would interfere with or be detrimental to the quiet and peaceful use and enjoyment of any nearby land; or would otherwise be a detriment to public health, welfare and safety.
- (5) Public hearing; action by City Council. Upon receiving the recommendation from any applicable canal maintenance assessment district advisory committee and after proper notification to the public of the date, time and place of the public hearing, the City Council will hear the petition for special permit and such other reports by the public as may be deemed pertinent and may grant or deny the petition as it deems appropriate, provided the applicant establishes that granting of the petition would conform to the following criteria:
 - a. would be in harmony with the general intent and purpose of subsection 6-6(c);
 - b. would not be injurious to the waterway involved;
 - c. would not impede safe navigation;
 - d. would not allow a structure or use aesthetically or functionally incompatible with existing structures or uses on surrounding lands;
 - e. would not permit any structure or activity that would interfere with or be detrimental to the quiet and peaceful use and enjoyment of any nearby land; and
 - f. would not otherwise be a detriment to public health, welfare and safety.

- (6) Conditions. In granting any such petition for special permit, the City Council may prescribe appropriate conditions and safeguards in conformity with the provisions of section 6-6(c) above, including, but not limited to, reasonable time limits within which the action implementing the approved petition for special permit must be begun, completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the petition for special permit is approved, shall be cause for the revocation of said approval.
- (7) Record and basis for decision. In making its decision on such a special permit petition, the City Council shall consider only the reports, testimony, and other evidence presented at the public hearing thereon. Any recommendation of a canal maintenance assessment district advisory committee shall not be considered unless supported by evidence presented at the City Council public hearing.

(k) Floating Lift. For purposes of this section, floating lift is defined as a floating device that supports the weight of a watercraft completely out of the water.

A floating lift shall meet the following criteria:

- (1) The length of the watercraft on the floating lift must not exceed 19 feet.
- (2) Dimensions of a floating lift shall not exceed 17 feet in width and 20 feet in length.
- (3) The float structure shall be constructed of polyethylene incorporated with an ultraviolet inhibitor.
- (4) Color shall be either white, black, beige or grey, which is intended to blend with concrete dock construction.
- (5) Reflectorized material shall be placed on the outer floating lift supports.

(Ord. No. 631-81, <sec> 1, 5-20-81; Ord. No. 890-87, <sec> 1, 10-7-87; Ord. No. 918-88, <sec> 1, 8-3-88; Ord. No. 975-89, <sec> 1, 12-20-89; Ord. No. 987-90, <sec> 2, 5-2-90; Ord. No. 1022-91, <sec> 2, 5-1-91; Ord. No. 1049-92, <sec><sec> 1, 2, 6-3-9 2) Ord. No. 1086-93 <sec> 1, 8-18-93; Ord. No. 1116-95, <sec> 1, 1-4-95, Ord. No. 1137-95 <sec> 1, 11-01-95; Ord. No. 1148-96 <sec> 1, 04-17-96 Ord. No. 1156-96 <sec> 4, 07-03-96, Ord. No. 1166-96 <sec> 1, 10-02-96, Ord. No. 1180-97 <sec> 1, 03-19-97, Ord. No. 1218-98 <sec> 1, 05-20-98, Ord. No. 1271-00 <sec> 1, 02-02-00; Ord. No. 1289-00 <sec> 1, 11-15-00; Ord. No. 1318-01 <sec> 1-7, 11-21-01; Ord. No. 1350-03, <sec> 1, 04-16-03; Ord. No. 1383-04; <sec> 1, 10-2004; Ord. No. 1416-05, <sec> 1, 09-07-05; Ord. No. 1687-11, <sec> 1, 08-17-11)

Cross reference(s)--Interference with navigation, <sec> 6-22.

Sec. 6-7. Maintenance of seawalls and appurtenances.

- (a) Responsibilities of canal maintenance assessment districts. Where the cost and expense of maintenance are borne by a canal maintenance

assessment district created pursuant to this Chapter, the district, through its governing body, shall have responsibility to:

- (1) Remove from the canals anything that impedes the flow of water or navigation such as silt or obstructions.
 - (2) Maintain the berm to proper height by placing fill on the water side of the seawall whenever necessary.
 - (3) Repair any deteriorating seawall, or remove and replace entirely the seawall, berm and backfill in the event of complete or major failure of the seawall, and employ all possible means to protect the abutting and adjoining property during necessary reconstruction.
 - (4) Supply fill material to property owners who wish to fill sinkholes supplying their own labor, or supply both labor and material if the owner so desires.
 - (5) Inspect the seawall, berm and backfill on properties in the district on a regularly scheduled basis. If inspection indicates a need for backfill or other corrective measures, the owner shall be given reasonable notice to correct the condition by a certain day, depending upon the nature and urgency of the situation. If the condition is not corrected within said time period, the district may proceed to perform the work necessary, billing the owner at cost, or extend the time limit for good cause shown.
 - (6) Administer and implement the program for canal maintenance and act as trustee for funds generated, to be expended only in the canal maintenance assessment district. Revenues are to be carried in two (2) separate accounts and disbursed only as follows:
 - a. Account No. 1--To be used to meet predictable budgetary needs for maintenance of waterways.
 - b. Account No. 2--To be used to create a contingency fund, subject to such limitations as may be provided by law, to cover unpredictable disaster type of emergencies which might occur from time to time.
 - (7) Dredge for boat docks and provide other maintenance services upon payment of user fees in amounts as established by resolution of the City Council.
 - (8) Dredge navigable channels, when needed.
- (b) Responsibilities of property owners and tenants. It shall be the responsibility of all property owners and their tenants within canal maintenance assessment districts to provide proper and safe maintenance of all appurtenances of theirs as they may affect the condition of seawalls and canals, and specifically the following:
- (1) On the water side of seawalls, maintenance of all davits or other hoisting or launching devices, docks, pilings, other devices, dock lights, water lines, power lines, boats and all other equipment.

- (2) On the land side of the seawalls:
 - a. Maintenance of all davits or other hoisting or launching devices, patios, swimming pools, walks, sprinkler and plumbing systems, wiring, grass, trees, shrubbery and other appurtenances or structures erected or placed upon the property.
 - b. Maintenance of the backfill at least level with the top of seawall caps. The owner may notify the district if it is preferred to have such district perform the required maintenance, with the cost of such maintenance to be paid by the owner.
 - c. Refraining from any act that might endanger the integrity of the seawalls, tie-rods, or deadmen. Any object or structure attached to or resting on or against the seawall or seawall cap is prohibited, including cleats or anchors for the purpose of tying a vessel. Tie-off anchors may be placed six (6) feet or more landward of the seawall.
- (3) Maintaining the appearance of the seawall and cap similar to those on adjoining lots.
- (4) Dredging, except in navigable channels.
- (c) Use of private property; restoration. Upon recommendation of the Director of the Public Works Department, a canal maintenance assessment district may:
 - (1) Authorize the use of private property for the purpose of maintaining or reconstructing seawalls or appurtenances.
 - (2) Authorize its agents or employees to enter upon private land in the performance of required duties to the extent necessary in the enforcement and administration of each such district, provided that private property shall be restored after construction as near as practicable to its preconstruction condition, except, however, that no permanent improvements whatsoever within twenty (20) feet of canals shall be replaced except grassing and irrigation piping, unless the express consent of the City Council is obtained.
 - (3) Authorize its agents or employees to move or remove docks, davits, eleverts, lampposts, flagpoles and other items affected by a seawall's failure or the reconstruction or repair thereof; reinstallation or replacement of said items will be at the owner's expense.
- (d) Maintenance outside of a canal district. The cost of maintaining seawalls, seawall backfill, and all appurtenances thereof for all properties which are outside of a canal maintenance assessment district shall be the sole responsibility of the owner or tenant thereof.

Ord. No. 631-81, <sec> 2, 5-20-81; Ord. No. 800-85, <sec> 1, 6-5-85; Ord. No. 918-88, <sec> 1, 8-3-88; Ord. No. 937-88, <sec><sec> 1, 2, 11-16-88; Ord. No. 1022-91, <sec> 3, 5-1-91; Ord. No. 1087-93, <sec><sec> 1--2, 8-18-93; Ord. No. 1094-94, <sec> 1, 1-5-94, Ord. No. 1156-96 <sec> 5, 07-03-96)

Sec. 6-8. Inspections of seawalls and appurtenances.

The City of Punta Gorda, whether within or without any current or future canal maintenance assessment district, may in its own capacity, through its authorized officers, employees and agents, enter upon land and make examinations and surveys as deemed necessary for the inspection of all seawalls or appurtenances within the City.

(Ord. No. 631-81, <sec> 3, 5-20-81, Ord. No. 1156-96 <sec> 6, 07-03-96)

Sec. 6-9. Private use of public property.

- (a) Any person using the public property of the city described in section 6-2 hereof without the expressed consent of the City Council, evidenced by a resolution duly adopted, shall be guilty of violating the provisions of this Chapter.
- (b) Any resolution adopted, permitting the use of public property by private persons, shall be of a temporary nature only, revocable by the City Council at any time.
- (c) Fishing from the City owned lot on Candia Drive described as PGI Section 15, Block 235, Lot 21, is hereby prohibited at all times, and the City Manager is hereby authorized to signpost such lot "No Fishing".
- (d) Fishing is prohibited at all times on the following described public rights-of-way and public lands and the City Manager is hereby authorized to signpost such public rights-of-way and public lands "No Fishing":
 - (1) Those public rights-of-way and public lands touching, abutting or ending at Tarpon Inlet as dedicated on Punta Gorda Isles Replat of Part of Block 19, Section Two, Amended, as recorded in Plat Book 5, Page 33, and Punta Gorda Isles Section Six as recorded in Plat Book 7, Page 7-A of the Public Records of Charlotte County.
 - (2) That portion of Bal Harbor Boulevard touching, abutting or ending at the perimeter canal dedicated as public rights-of-way on Plat of Punta Gorda Isles Section Twelve as recorded in Plat Book 8, Pages 6A through 6T of the Public Records of Charlotte County.
 - (3) That portion of Colony Point Drive (a/k/s Novata Drive) including Tract A and any shoreline of Section 15, Township 41S, Range 22E, lying in Punta Gorda Isles 17 Replat as recorded in Plat Book 15, page 8A of the Public Records of Charlotte County.
 - (4) Laishley Park Municipal Marina docks, with the exception of the designated fishing pier. For the purposes of this section, the term "Laishley Park Municipal Marina" shall mean that portion of Laishley Park Municipal Marina identified as "Fee Based Boat Dock Lease Area" on attachment "A" to the State of Florida Sovereignty Submerged Lands Lease No. 080000095.
 - (5) The dedicated right-of-way of West Marion Avenue, formerly "Punta Gorda Point Beach Road" over, touching, or abutting the Sailfish Estuary between Lots 1 and 33, Blocks 34 and 33 respectively, Punta Gorda Isles, Section 5, according to the Plat thereof as recorded in Plat Book 5, Page 60A in the Public Records of Charlotte County, Florida, and between Lot 1, Block 3, Punta Gorda Isles, Section 4, according to the Plat thereof as recorded in Plat Book 5, Page 45B in the Public Records of Charlotte County, Florida and Lot 21, Block 2, Punta Gorda Isles, Section 1, according to the Plat thereof as recorded in Plat Book 4, Page 53 in the Public Records of Charlotte County, Florida.

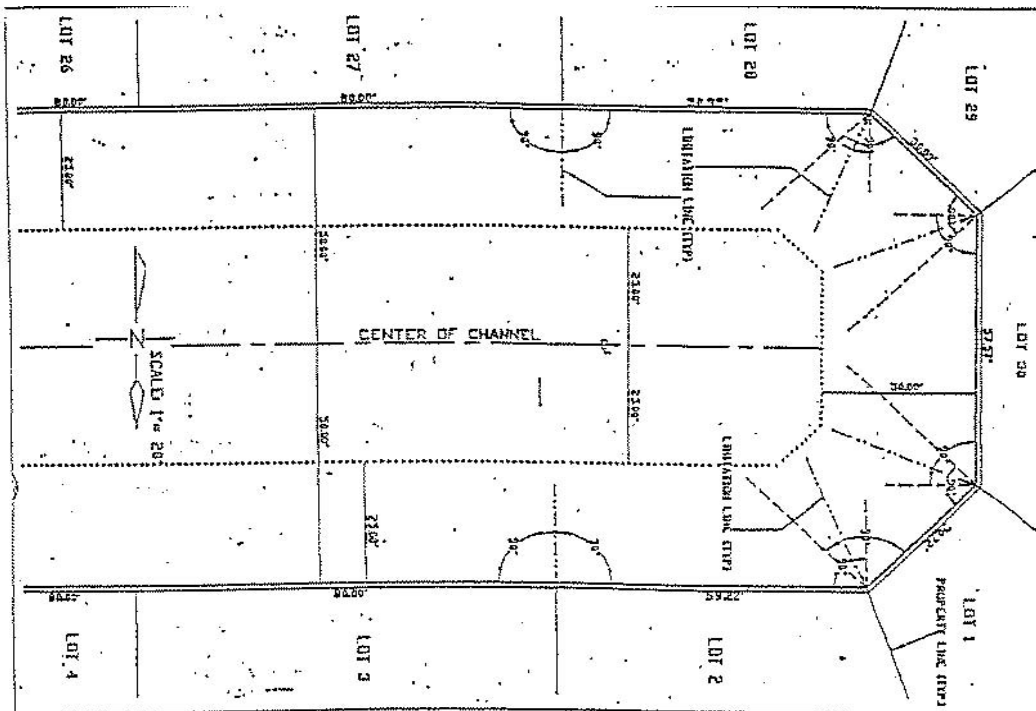
(Ord. No. 1239-99, <sec> 1, 3-3-99; Ord. No. 1342-02, <sec> 1, 10-2-02; Ord. No. 1466-07, <sec> 1, 2-21-07; Ord. No 1495-07, <sec> 1, 7-3-07; Ord. No 1522-07, <sec> 1, 11-21-07; Ord. No. 1631-10, <sec> 1, 3-17-10)

Sec. 6-10. Mooring on private docks without permission.

No vessel or watercraft of any kind whatsoever shall moor to or tie up to a private seawall or dock or be beached upon private property within the City limits without the permission of the owner thereof.

Sec. 6-11. Storage of boats in canals and other waterways.

- (a) No marine vessel, or any part thereof, when moored adjacent to a seawall or when secured in any way to a seawall or any structure in a canal or other waterway, shall protrude beyond the property lines, as extended into the canal or other waterway in accordance with subsection (c) below, of the lot or parcel of land to which the seawall is appended, from which the structure projects, or for which the structure was permitted.
- (b) No marine vessel, or any part thereof, when secured or stored in a boat davit, boat lift or similar structure, may protrude beyond the property lines, or beyond such property lines as extended into a canal or other waterway in accordance with subsection (c) below, of the lot or parcel of land on which the davit, lift or structure is located or to which the davit, lift or structure is appended.
- (c) For purposes of this section, property lines shall be extended into an abutting canal or other waterway in the following manner:
 - (1) At the point where the property line intersects the seawall or edge of waterway, the property line shall extend perpendicular to the seawall or edge of waterway. (See Figure 1.)
 - (2) If the property line intersects the seawall or edge of the waterway at a point where different portions of the seawall or edge of the waterway intersect at an angle, the extended property line shall be determined by bisecting the angle that is created by imaginary extensions of the property line perpendicular to both portions of the seawall or edge of the waterway. (See Figure 1.)



- (d) Violation of the requirements and limitations of this section shall not be a misdemeanor but may be processed as a code violation before the Code Enforcement Board. However, this section is intended to create rights and obligations as between adjoining property owners and may be enforced by one property owner against an adjoining property owner through a civil action for injunction in the circuit court.

- (e) In any civil action by one property owner against an adjoining property owner to enforce the requirements and limitations of this section, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

(Ord. No. 1220-98, <sec> 1, 06-17-98)

Sec. 6-12. Use of searchlights, horns, whistles, etc.

The indiscriminate use of searchlights, horns, whistles, bells, public address systems, and docking lights on any watercraft within the corporate limits of the City is prohibited.

(Ord. No. 918-88, <sec> 1, 8-3-88)

Sec. 6-13. Garbage disposal.

All watercraft moored or docked in the waterways within the City limits, shall provide garbage cans of sufficient size to hold garbage or refuse to be collected by the sanitary department. It shall be unlawful for persons upon such boats to dump or throw garbage, paper, bottles, cans, refuse or debris into such waterways.

Sec. 6-14. Fishing from private property.

- (a) Within the territorial area of the Punta Gorda Isles Canal Maintenance Assessment District and the Burnt Store Isles Canal Maintenance Assessment District, as such area is defined in Articles II and III of this Chapter, respectively, it shall be unlawful and a violation of this Code for any person to take or attempt to take fish by any method from any vacant and undeveloped private property of another without the express written permission of the owner or lessee of said property. Where the owner or lessee of the private property is present, verbal permission may be conveyed to a City Police Officer or any Code Enforcement Officer of the City, provided the owner or lessee has appropriate identification demonstrating said person is the lawful owner or lessee of the private property. Failure to provide written evidence of such permission shall be considered as prima facie evidence of lack of permission.
- (b) Solely for the purposes of this Section, the seawall adjacent to the vacant and undeveloped private property described in Subsection (a) above shall be treated as if a part of the vacant and undeveloped upland private property such that the prohibition contained in Subsection (a) shall also pertain to said seawall segment.
- (c) The written permission required by Subsection (a) above shall state the date the permission is given, the person or persons to whom the permission is given, the name and signature of the owner or lessee of the land and the telephone number of the owner or lessee. The permission shall be valid for a period of one year from the date stated therein.

(Ord. No. 1544-08, <sec> 1, 3-5-08)

Sec. 6-15. Reserved.

Editor's note--Former <sec><sec> 6-14 and 6-15 which pertained to the prohibition of unsightly or badly deteriorated boats and the use of boats as places of business and were derived from Ord. No. 552-79, <sec> 2, adopted Sept. 5, 1979, and provisions adopted at the time of original codification, have been deleted as having been superseded by that portion of Ord. No. 628-81, <sec> 8 adopted March 18, 1981, and included herein as <sec> 26-8(8).

Sec. 6-16. Living aboard boats and other watercraft.

- (a) Within the City of Punta Gorda, living aboard boats and other watercraft shall be permitted only in marinas approved for such purpose by the Zoning and Land Development provisions of this code (see section 26-7). Boats and other watercraft used for living purposes shall be in the water and shall meet the requirements of all state regulatory agencies.
- (b) Toilet facilities on boats, houseboats or other watercraft used for living aboard shall be either portable devices, which can be carried on or off the vessel, or U.S. Coast Guard Type III, no discharge systems.

(Ord. No. 542-79, <sec> 1, 6-6-79; Ord. No. 1037-92, <sec> 1, 2-5-92)

Cross reference(s)--Provisions pertaining to similar subject matter, <sec> 26-8(17).

Sec. 6-17. Commercial harvesting of shellfish on public waterway prohibited.

From and after the effective date of this section, it shall be unlawful for any person, firm or company to harvest commercially any shellfish, as defined by the Florida State Department of Health and Rehabilitative Services, from any of the dedicated public waterways within the City.

(Ord. No. 301, <sec> 1, 12-5-67; Ord. No. 552-79, <sec> 3, 9-5-79)

Sec. 6-18. Enforcement.

- (a) The sheriff of Charlotte County, Florida, his authorized deputies and the City of Punta Gorda police officers are authorized and directed to enforce the provisions of this Chapter. Notwithstanding any language contained in Chapter 9A, "Code Enforcement and Abatement of Nuisances," City of Punta Gorda Code of Ordinances, to the contrary, the provisions of Chapter 6, "Boats, Docks and Waterways," City of Punta Gorda Code of Ordinances, may be enforced in accordance with the Code Enforcement procedures provided in Chapter 9A, City of Punta Gorda Code of Ordinances and Chapter 162, Florida Statutes. The Chief of Police of the City of Punta Gorda is hereby authorized to appoint and train volunteers to serve as code enforcement officers for the purpose of enforcing the following provisions of Chapter 6, City of Punta Gorda Code of Ordinances: Sections 6-1; 6-2(a); 6-3; 6-4(a); 6-4(b); 6-4(d); 6-4(e); 6-5; 6-6(f); 6-7(b)(2)(c); 6-11; 6-13; 6-16; 6-22 and 6-23, City of Punta Gorda Code of Ordinances. Said volunteers shall be agents of the City of Punta Gorda but not employees thereof. The Chief of Police of the City of Punta Gorda shall establish minimum qualifications for service as a volunteer for code enforcement purposes.
- (b) Enforcement of violations of Sections 6-9(c) and (d) and 6-14 of this Chapter shall be by means of citations issued for non-criminal infractions. Such citations may be issued by any City Police Officer and any Code Enforcement Officer of the City and shall be in such form as may be adopted for such use by the Chief of the Punta Gorda Police Department. The citation given to any violator shall specify the violation and the civil penalty therefor and shall notify the violator:
 - (1) That the civil penalty must be paid at the Office of the City Clerk no later than ten (10) days after the date the citation is issued unless the violation is appealed to the Code Enforcement Board, giving the address of the City Clerk's office;
 - (2) That any appeal must be filed with the Code Enforcement Board Clerk within ten

(10) days after the date of the citation is issued, in the City's Code Compliance Division, giving the address of the City's Code Compliance Division; and

(3) That, if found guilty of the violation by the Code Enforcement Board on an appeal, the violator shall pay the assessed civil penalty as well as the cost of the appeal in the amount of Fifty Dollars (\$50.00).

(c) Any person who elects to contest a citation may appear before the City of Punta Gorda Code Enforcement Board to present evidence, provided a hearing is requested in writing, through the Code Enforcement Board Clerk in the City's Code Compliance Division, within ten (10) days after the date of the citation. The Code Enforcement Board, after a hearing, shall make a determination as to whether a violation has been committed and, upon a finding that the violator is guilty, shall impose the civil penalty therefor, along with the cost of the appeal in the amount of Fifty Dollars (\$50.00). Any person who receives a citation for a violation of any provision of this Chapter and neither pays the civil penalty nor files a written appeal of the citation within ten (10) days after the date of the citation shall be deemed to have violated this Chapter, with said violation being punishable as provided in Section 1-6 of this Code.

(d) Any person who violates any provision of Sections 6-9 (c) and (d) or 6-14 of this Chapter shall be assessed a civil penalty as follows:

- (1) For the first offense after a prior written warning..... \$100.00
- (2) For the second offense..... \$200.00
- (3) For each subsequent offense.....\$300.00

(Ord. No. 450, <sec> 1, 1-7-75; Ord. No. 1439-06, <sec> 1, 4-19-06: Ord. No. 1544-08, <sec> 2, 3-5-08)

Sec. 6-19. Marinas--Occupational license required.

(a) Persons, firms, or corporations shall not offer or provide to others more than one boat dockage space attached to a single lot of record in return for a fee or any other consideration without first obtaining: (1) a land development permit per land development provisions in section 26-7 of the City Code; and (2) an occupational license per section 12-10 of the City Code. Any application for a license and/or land development permit for a live-aboard marina shall include a copy of the intended boat rules and regulations governing dockages, and be kept in the City Clerk's office for inspection by any interested party.

(b) Occupational licenses and land development permits issued for marinas shall be null and void anytime upon a finding by the City that the marina operator is ignoring any of the conditions upon which the license and/or permit was originally granted ; continued operation of such marina shall be in violation of the City Code.

(c) Application for a change in boat rules and regulations or transfer of the occupational license and/or land development permit shall also be made to the City.

(Ord. No. 541-79, <sec> 1, 6-6-79; Ord. No. 1037-92, <sec> 1, 2-5-92)

Sec. 6-20. Reckless or negligent operation of vessel; penalty.

It is unlawful in the City of Punta Gorda, Florida, to operate a vessel as defined in Section 327.02, Florida Statutes, in a reckless manner. A person is guilty of reckless operation of a vessel who operates any vessel, or manipulates any water skis, aquaplane, or similar

device in willful or wanton disregard for the safety of persons or property, or without due regard, caution and circumspection, or at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure any person.

Any person violating this section is guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes, sections 775.082, 775.083 or 775.084.

(Ord. No. 662-82, <sec> 1, 2-3-82; Ord. No. 1537-08, <sec> 1, 1-2-08)

Cross reference(s)--Careful and prudent operation; speed of boats, <sec> 6-4.

Sec. 6-21. Operating vessel while under influence of intoxicating liquor or a controlled substance declared unlawful; penalty.

It is unlawful for any person who is under the influence of an alcoholic beverage, any substance controlled under Chapter 893, Florida Statutes, or any chemical substance set forth in Section 877.11, Florida Statutes, when affected to the extent that his normal faculties are impaired, to operate or be in actual physical control of any vessel on the waters of this state. Any person violating this section is guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes, sections 775.082, 775.083 or 775.084.

(Ord. No. 662-82, <sec> 1, 2-3-82; Ord. No. 1537-08, <sec> 1, 1-2-08)

Sec. 6-22. Interference with navigation prohibited; exception.

Except in the case of an emergency declared by the Mayor or City Council, or City Manager, or as required for maintenance dredging; no person shall operate any vessel or carry on any activity, including but not limited to the placing of crab traps, mooring buoys, pilings or similar objects, in a manner which shall unreasonably or unnecessarily constitute a hazard to navigation or interfere with another vessel. Making fast to a navigational aid is prohibited. Live-aboard vessels, as that term is defined in Section 327.02, Florida Statutes, shall be prohibited from anchoring or mooring outside of an approved live-aboard marina or outside the marked boundaries of mooring fields permitted pursuant to Section 327.40, Florida Statutes. The provisions of this Section shall not apply to any vessel within the Florida Intracoastal Waterway.

(Ord. No. 661-82, <sec> 1, 2-3-82; Ord. No. 701-82, <sec> 1, 11-3-82; Ord. No. 1022-91, <sec> 4, 5-1-91; Ord. No. 1690-11, <sec> 1, 9-21-11)

Cross reference(s)--Obstructions in waterways, <sec> 6-6.

Sec. 6-23. Marking and reflectorizing on pilings and other permitted structures required.

- (a) All unattached pilings and end pilings on finger piers located in waterways more than fifteen (15) feet seaward of seawalls or the mean high water mark of shorelines shall be painted with a durable white coating on the upper four (4) feet thereof and wrapped with white reflective tape of at least two (2) inches in width and one foot from the top so that the same shall be visible for three hundred sixty (360) degrees.
- (b) It shall be the duty of all owners and tenants of properties with such pilings or permitted structures to maintain the same in a safe condition and to ensure that the same are kept marked and reflectorized as herein provided.
- (c) Any person failing to comply with the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided by section 1-6 of the Code

of Ordinances.

(Ord. No. 804-85, <sec> 1, 8-7-85, Ord. No. 1218-98, <sec> 2, 05-20-98)

Sec. 6-24. Use of boat ramps.

Public boat ramps within the City of Punta Gorda shall be limited to the use delineated in the following notice which shall be posted waterward and landward at all public boat ramps in the City:

RAMP AREA
LAUNCHING AND RETRIEVING ONLY
NO DOCKING (UNLESS TEMPORARILY LOADING OR
UNLOADING PERSONS)
NO ANCHORING
NO BEACHING WITHIN 200 FEET OF BOAT RAMP

PENALTY \$200.00 FINE CITY CODE SEC. 6-24

(Ord. No. 1070-93, <sec> 2, 2-17-93)

Sec. 6-25. Canal, channel and shoreline speed zones.

(a) Definitions: When used in this section the following words shall have the indicated meanings:

- (1) **"Slow Speed"** and **"Slow Speed Minimum Wake"** may be used interchangeably and mean that a vessel must be fully off plane and completely settled into the water. The vessel must then proceed at a speed which is reasonable and prudent under the prevailing circumstances so as to avoid the creation of excessive wake or other hazardous condition which endangers or is likely to endanger other vessels or other persons using the waterway. A vessel that is: (a) Operating on a plane is **not** proceeding at this speed; (b) In the process of coming off plane and settling into the water or coming up onto plane is **not** proceeding at this speed; (c) Operating at a speed that creates a wake which unreasonably or unnecessarily endangers other vessels or other persons using the waterway, or is likely to do so, is **not** proceeding at this speed; (d) Completely off plane and which has fully settled into the water and is proceeding at a reasonable and prudent speed with little or no wake **is** proceeding at this speed.
- (2) **"Vessel"** means any boat or vessel propelled or powered by machinery.
- (3) **"Idle Speed No Wake"** means that a vessel must proceed at a speed no greater than that which will maintain steerageway and headway. At no time is any vessel required to proceed so slowly that the operator is unable to maintain control over the vessel or any other vessel or object that it has under tow.
- (4) **"Regulatory Marker"** means a device used to alert mariners to various warnings or regulatory matters such as horsepower, speed or wake restrictions. The term includes, but is not limited to "waterway markers".
- (5) **"Wake"** means all changes in the vertical height of the water's surface caused by the passage of a vessel including, but not limited to, a vessel's bow wave, stern wake and propeller wash, measured from the ambient tide level to the crest of the vessel's wake at a distance of not less than 25 feet from the vessel.

(b) Speed Zones:

- (1) For the purpose of regulating the speed and operation of vessels, except as otherwise provided herein, the Punta Gorda Slow Speed zones shall lie entirely within the corporate limits of the City and are established as follows:

Ponce de Leon access channel

Colony Point access channel

Pompano Inlet access channel

Bass Inlet access channel

Fishermen's Village access channel

Punta Gorda Boat Club access channel

Laishley Park Marina access channel

Punta Gorda Marina access channel

All canals within the Punta Gorda and Burnt Store Isles residential communities.

All other shorelines within City limits waterward to the six foot (6') depth contour as shown on the attached U.S. Geological Survey revised 1987.

- (2) Idle Speed No Wake and Slow Speed Minimum Wake speed zones authorized in 1997 by the State of Florida for Ponce de Leon Inlet, Pompano Inlet, Laishley Park Channel, Bass Inlet and Snook Inlet, as shown on the Speed Zone Signage Map, are hereby adopted by reference. Such speed zones shall be marked as required by the State of Florida.

- (c) Waterway Markers: Such zones as established herein shall be marked by signs at least 3' x 3' in size in conformity with the Florida Uniform Waterway Marking System, with black block characters at least 1" in height with white reflective material used for the background and situated at locations where they will be highly visible to the boating public at the mouths of the major access channels listed in this section and at the six foot (6') depth contour line (below mean sea level) where the channels cross the contour line.
- (d) Enforcement: The provisions of this section shall be enforced by every law enforcement agency in this state which enforces the laws of the state regulating the operation of vessels. Any person cited for a violation of the provisions of this section shall be deemed to be charged with a non-criminal infraction, shall be cited for such infraction, and shall be cited to appear before the county court. The civil penalty for such infraction is Fifty Dollars (\$50.00). Any person who fails to appear or otherwise properly respond to the citation shall, in addition to the charge relating to the violation, be charged with the offense of failing to respond to such citation and upon conviction, be guilty of a misdemeanor of the second degree.

(Ord. No. 1149-96, <sec> 1, 04-17-96; Ord. No. 1635-10, <sec> <sec> 2-3, 05-05-10)

ARTICLE II. PUNTA GORDA ISLES CANAL MAINTENANCE ASSESSMENT DISTRICT

Sec. 6-26. Canal maintenance assessment district -- Creation.

There is hereby created a special district, to be known as the "Punta Gorda Isles Canal Maintenance Assessment District," for the purpose of the maintenance of canals, waterways, and navigable channels, including the maintenance and reconstruction of bulkheads and retaining walls, which have been accepted or are hereafter accepted by the City of Punta Gorda, within the area comprising the district. The Punta Gorda Isles Canal Maintenance Assessment District shall assume all of the assets, rights, liabilities and obligations of the former Punta Gorda Isles Canal District created by City of Punta Gorda Ordinance No. 549-79, which is hereby dissolved.

Sec. 6-27. Same -- Area included within district.

- (a) The land comprising the Punta Gorda Isles Canal Maintenance Assessment District is that land within the City of Punta Gorda, Charlotte County, Florida, legally described as follows:

Punta Gorda Isles, Sections 1 through 4 inclusive; Section 5, less Block 34, Lots 18, 19 and 20; Section 6; Section 7, less Block 76; Section 8; Block 87, Lots 17 through 30, inclusive, of Section 9; Section 9B, less Block 111; Lot 6 of Section 9C; Section 10, less Block 89, Lots 9, 14 and 15; Section 11, less Block 104; Section 12, less Block 114, and less Blocks 156 through 162, inclusive, and less Tract O, and less Tract platted as "Golf Course;" Section 14, less Blocks 163 through 167, inclusive, and less Tracts B and C; Section 17; and Tracts B and C only of Section 26; and Parcel 1 (a vacated portion of Block 17, Punta Gorda Center), lying adjacent to the northerly boundary of PGI Section 14 (said Parcel 1, a/k/a Clipper Cove Condominium); and a parcel of land commencing at the SW corner of Section 13, Township 41 South, Range 22 East, being a brass disk in a well; thence N 00 degrees 44'21"E along the westerly line of said Section 13 (the westerly quarter corner of said Section 13 being a PK nail and disk which bears N 00 degrees 44'21"E, a distance of 2640.32 feet from the Point of Commencement), a distance of 1321.17 feet; thence S 89 degrees 02'48"E, a distance of 458.87 feet to the Point of Beginning. Thence N 00 degrees 58'05"E, a distance of 420.48 feet; thence S 89 degrees 05'15"E, a distance of 860.93 feet; thence S 00 degrees 59'04"W, a distance of 421.09 feet; thence N 89 degrees 02'48"W, a distance of 860.81 feet to the Point of Beginning; containing 8.3159 acres, more or less. (Clipper Cove Village, Inc.); and a parcel of land including all seawalls on property which abuts the Eastern side of Snook Inlet, being Lots 1,2,7,8, Block 16 per Plat Book 1, Page 1 of the Public Records of Charlotte County and parcel of land known as Cosby Park per Plat Book 1, Pages 1 and 23 of the Public Records of Charlotte County. (Starboard Point Condominium Association, Inc.); and Punta Gorda Isles Section 9, Lots 3 and 4, Block 20 and that portion of vacated Retta Esplanade and Inville Park lying northerly of said Lots 3 and 4. (LaVista Condominium Association, Inc.) and a parcel of land commencing at the southeast corner of Lot 5, Block 88, Punta Gorda Isles Section 9A as recorded in Plat Book 7, Page 64 of the Public Records of Charlotte County, Florida. Said point also being on the northerly right-of-way line of West Marion Avenue thence run north 89 degrees, 50'00" west along the northerly right-of-way of West Marion Avenue for a distance of 246.60 feet to the point of beginning; thence continue along the northerly right-of-way of West Marion Avenue north 89 degrees 50'00" west for a distance of 203.82 feet to the southwest corner of Lot 1, Block 88, Punta Gorda Isles Section 9A; thence run north 01 degrees, 02'30" west for a distance of 191.40 feet to the northwest corner of said Lot 1; thence run south 89 degrees, 50'00" east for a distance of 207.87 feet; thence run south 00 degrees 10'00" west for a distance of 60.36 feet; thence run south 89 degrees, 50'00" east for a distance of 5.00 feet; thence run south 00 degrees, 10'00" west for a distance of 80.00 feet; thence run north 89 degrees, 50'00" west for a distance of 5.00 feet; thence run south 00 degrees, 10'00" west for a distance of 51.00 feet to a point on the northerly right-of-way line of West Marion Avenue also being the Point of Beginning. (Southwind Condominium Association) and The water area included in the following: Beginning at the Eastern line of Snook Inlet where it intersects the South shoreline of Charlotte Harbor as a point of beginning; thence run Northerly along an extension of the Eastern line of Snook Inlet to a point 1000 feet from the South shoreline of Charlotte Harbor; thence run Westerly and Southerly along a line 1000 feet from and parallel to the South shoreline of Charlotte Harbor to a point on the Westerly extension of the South line of Ponce de Leon Inlet; thence run Easterly along the extension of the South line of Ponce de Leon Inlet to the shoreline of Charlotte Harbor; thence run along the South side of the channel from Ponce de Leon Inlet to the perimeter canal on the Western side of Punta Gorda Isles, Section 12, adjacent to Sea Trout Strait; thence run Northerly along the Western boundaries of Sections 17, 6, 2, 3

and 4 of Punta Gorda Isles and Easterly along the Northern boundaries of Sections 4, 10, 9A and 9 of Punta Gorda Isles to a point West of the intersection of the Eastern line of Snook Inlet with the South shoreline of Charlotte Harbor; thence run East to the point of beginning; less all of Section 24 of Punta Gorda Isles.

- (b) The Punta Gorda Isles Canal Maintenance Assessment District shall review and consider all requests to include lands not currently included within the district.
- (1) Requirements. Requests for inclusion and acceptance of lands into the Canal Maintenance Assessment District shall require the following:
- a. Submission of a written application by the property owner on such forms prescribed by the Canal Maintenance Division. The application must be signed and notarized by all owners of the property. If the property is part of a condominium association, an officer of the association authorized under its bylaws shall make the application on behalf of the property owners.
 - b. A copy of the deed or other evidence of property ownership.
 - c. A Digital Text File of the metes and bounds description of the property.
 - d. A written evaluation of the current condition of the existing seawall and seawall cap furnished by a Florida licensed marine contractor. Such written evaluation shall be obtained by the applicant at his/her sole cost and expense.
- (2) Review. Upon receipt of a complete request for inclusion of lands into the Canal Maintenance Assessment District, the Canal Maintenance Division shall verify the current condition of the existing seawall and shall prepare the proposed amendment to Subsection (a) of this Section, and submit the request along with recommendation to the Punta Gorda Isles Canal Advisory Committee. The Punta Gorda Isles Canal Advisory Committee shall consider the request at a duly noticed public hearing and provide recommendation to the Punta Gorda Isles Canal Maintenance Assessment District. The Punta Gorda Isles Canal Maintenance Assessment District shall consider the request at a duly noticed public hearing and shall either approve or deny the request.
- (3) Notice. Public Hearing Notice shall be advertised one time in a newspaper of general circulation at least fifteen (15) days prior to the public hearings.
- (4) Fee. The fee for acceptance of lands into the Punta Gorda Isles Canal Maintenance Assessment District shall be equal to the total assessment which would have been due on the property from the inception of the district. This fee shall be calculated by the Finance Department upon receipt of the application. In the event that the seawall and seawall cap have been replaced, the fee shall be prorated to the date of such replacement. If the seawall and seawall cap have been replaced within the three (3) years preceding the request, the fee shall be waived. The Punta Gorda Isles Canal Maintenance Assessment District shall have the authority to deny the request based on, but not limited to, the condition of the seawall.

(Ord. No. 1331-02, <sec> 1, 4-3-02; Ord. No. 1335-02, <sec> 1, 9-4-02; Ord. No. 1361-03, <sec> 1, 11-05-03; Ord. No. 1672-11, <sec> 1, 3-16-11)

Sec. 6-28. Same -- Governing body; advisory committee.

The Punta Gorda Isles Canal Maintenance Assessment District shall be governed by a board of five members, who shall be the members of the city council of the City of Punta Gorda. The governing body shall appoint and be advised by a committee of seven (7)

residents of the district. The initial members of the advisory committee shall be the members of the advisory committee of the former Punta Gorda Isles Canal District. The duties of the advisory committee include, but are not limited to:

- (a) Representing the residents and property owners in the district;
- (b) Reporting to and making recommendations to the City Council on matters concerning functions of the district, to include holding public hearings on petitions for variances for the purpose of recommending to the City Council approval or denial of said variances from the provisions of section 6-6(c) or any other variance request located on land abutting and lying within six (6) feet of the seawall; and
- (c) Working with the City Manager in determining priorities concerning work to be done by the district.

(Ord. No. 1669-11, <sec> 1, 3-2-11)

Sec. 6-29. Same -- Powers of district.

The Punta Gorda Isles Canal Maintenance Assessment District shall have the following powers, to be exercised through its governing body, together with all other powers necessary to the effective maintenance of existing canals, waterways and navigable channels within the district, to the effective maintenance and reconstruction of bulkheads and retaining walls within the district, and to the imposition and collection of special assessments for such purposes:

- (a) To sue and be sued in its own name;
- (b) To adopt and use a seal;
- (c) To acquire and own property in its own name;
- (d) To enter into contracts to effectuate the purposes of the district;
- (e) To borrow and expend money and to issue bonds and revenue certificates and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law;
- (f) To levy and collect annual special assessments on each subdivided lot within the district which is zoned for single-family residential use, pro-rated in the case of ownership of partial lots according to the proportion of the original subdivided lot area held, and, for all properties zoned otherwise, to levy and collect annual special assessments equal to one ten-thousandth of a single-family lot assessment for each square foot of land lying less than one hundred twenty (120) lineal feet from any dedicated canal or waterway, or from seawalls or bulkheads abutting Charlotte Harbor; and
- (g) To provide for the levying of such assessments on annual tax bills, as non-ad valorem assessments, in accordance with Florida Statutes.

Sec. 6-30. Same -- annual assessments.

The Punta Gorda Isles Canal Maintenance Assessment District shall each fiscal year levy an assessment sufficient to fund the necessary and expected expenses for such fiscal year and to provide a reasonable contingency fund for emergency repairs and replacements necessitated by natural disasters or other calamitous occurrences. Notices of proposed

assessments shall be included, as non-ad valorem assessments, on the notices of proposed taxes mailed each year by the Charlotte County Tax Collector. Each year, the governing body of the district shall hold a public hearing on the amounts of assessments, with such hearing to be in conjunction with the City of Punta Gorda Budget hearings. The district shall publish a notice of said public hearing at least five (5) days in advance thereof in a newspaper of general circulation in Charlotte County. At such public hearing, all persons assessed within the district shall have the opportunity to contest the amount of their assessments and the value of the special benefit to their properties upon which such assessment is based.

Sec. 6-31. Same -- finding of special benefit.

In creating the Punta Gorda Isles Canal Maintenance Assessment District, the City Council finds and determines that the special benefits to each property owner in the district-- through the sharing of costs of maintaining all canals, seawalls, and navigation channels in the district; through the shared use of such canals; by the property value created and enhanced by a functioning, well-maintained and safe canal system; and through the provision of a contingency fund for emergency repairs and replacements necessitated by natural disasters or other calamitous occurrences--exceeds each property owner's share of the costs of the necessary and expected expenses incurred by the district each year.

Sec. 6-32. Same -- use of City employees and equipment.

The City Manager is authorized and directed to use city employees and equipment in assisting the Punta Gorda Isles Canal Maintenance District in performing its obligations and duties set out in this article and to charge the district the reasonable costs thereof incurred by the city. By accepting the use of such employees and equipment, the district shall agree to pay such costs, which shall be included in the annual assessments.

(Ord. No. 1156-96 <sec> 2, 07-03-96, Ord. No. 1163-96 <sec> 3, 09-18-96; Ord. No. 1247-99 <sec> 1, 05-05-99)

ARTICLE III. BURNT STORE ISLES CANAL MAINTENANCE ASSESSMENT DISTRICT

Sec. 6-33. Canal maintenance assessment district -- Creation.

There is hereby created a special district, to be known as the "Burnt Store Isles Canal Maintenance Assessment District," for the purpose of the maintenance of canals, waterways, and navigable channels, including the maintenance and reconstruction of bulkheads and retaining walls, which have been accepted or are hereafter accepted by the City of Punta Gorda, within the area comprising the district. The Burnt Store Isles Canal Maintenance Assessment District shall assume all of the assets, rights, liabilities and obligations of the former Burnt Store Isles Canal District created by City of Punta Gorda Ordinance No. 825-86, which is hereby dissolved.

Sec. 6-34. Same -- Area included within district.

- (a) The land comprising the Burnt Store Isles Canal Maintenance Assessment District is that land within the City of Punta Gorda, Charlotte County, Florida, legally described as follows:
Punta Gorda Isles, Section 15, as per plat recorded in the Official Records of Charlotte County, Florida, including the channel to the city limits in Alligator Creek; less Commercial Lots 1 through 25, inclusive; and less Block 228; and less Block 229, Lots 2 through 9 and Lots 20 through 25, inclusive; and less Block 230, Lots 1 through 8, inclusive, and Lots 20 through 25, inclusive; and less Blocks 283 through 294, inclusive; and less Tracts A, B, C, D, E, F, G, H, I, and Burnt Store Golf Villas; and less lands zoned

Environmentally Sensitive.

- (b) The Burnt Store Isles Canal Maintenance Assessment District shall review and consider all requests to include lands not currently included within the district.
- (1) Requirements. Requests for inclusion and acceptance of lands into the Canal Maintenance Assessment District shall require the following:
- a. Submission of a written application by the property owner on such forms prescribed by the Canal Maintenance Division. The application must be signed and notarized by all owners of the property. If the property is part of a condominium association, an officer of the association authorized under its bylaws shall make the application on behalf of the property owners.
 - b. A copy of the deed or other evidence of property ownership.
 - c. A Digital Text File of the metes and bounds description of the property.
 - d. A written evaluation of the current condition of the existing seawall and seawall cap furnished by a Florida licensed marine contractor. Such written evaluation shall be obtained by the applicant at his/her sole cost and expense.
- (2) Review. Upon receipt of a complete request for inclusion of lands into the Canal Maintenance Assessment District, the Canal Maintenance Division shall verify the current condition of the existing seawall and shall prepare the proposed amendment to Subsection (a) of this Section, and submit the request along with recommendation to the Burnt Store Isles Canal Advisory Committee. The Burnt Store Isles Canal Advisory Committee shall consider the request at a duly noticed public hearing and provide recommendation to the Burnt Store Isles Canal Maintenance Assessment District. The Burnt Store Isles Canal Maintenance Assessment District shall consider the request at a duly noticed public hearing and shall either approve or deny the request.
- (3) Notice. Public Hearing Notice shall be advertised one time in a newspaper of general circulation at least fifteen (15) days prior to the public hearings.
- (4) Fee. The fee for acceptance of lands into the Burnt Store Isles Canal Maintenance Assessment District shall be equal to the total assessment which would have been due on the property from the inception of the district. This fee shall be calculated by the Finance Department upon receipt of the application. In the event that the seawall and seawall cap have been replaced, the fee shall be prorated to the date of such replacement. If the seawall and seawall cap have been replaced within the three (3) years preceding the request, the fee shall be waived. The Burnt Store Isles Canal Maintenance Assessment District shall have the authority to deny the request based on, but not limited to, the condition of the seawall.

(Ord. No. 1673-11, <sec> 1, 3-16-11)

Sec. 6-35. Same -- Governing body; advisory committee.

The Burnt Store Isles Canal Maintenance Assessment District shall be governed by a board of five members, who shall be the members of the city council of the City of Punta Gorda. The governing body shall appoint and be advised by a committee of five (5) residents of the district. The initial members of the advisory committee shall be the members of the advisory committee of the former Burnt Store Isles Canal District. The duties of the advisory committee include, but are not limited to:

- (a) Representing the residents and property owners in the district;
- (b) Reporting to and making recommendations to the city council on matters concerning functions of the district, to include holding public hearings on petitions for variances for the purpose of recommending to the City Council approval or denial of said variances from the provisions of section 6-6(c) or any other variance request located on land abutting and lying within six (6) feet of the seawall; and
- (c) Working with the City Manager in determining priorities concerning work to be done by the district.

(Ord. No. 1669-11, <sec> 2, 3-2-11)

Sec. 6-36. Same -- Powers of district.

The Burnt Store Isles Canal Maintenance Assessment District shall have the following powers, to be exercised through its governing body, together with all other powers necessary to the effective maintenance of existing canals, waterways and navigable channels within the district, to the effective maintenance and reconstruction of bulkheads and retaining walls within the district, and to the imposition and collection of special assessments for such purposes:

- (a) To sue and be sued in its own name;
- (b) To adopt and use a seal;
- (c) To acquire and own property in its own name;
- (d) To enter into contracts to effectuate the purposes of the district;
- (e) To borrow and expend money and to issue bonds and revenue certificates and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law;
- (f) To levy and collect annual special assessments on each subdivided lot within the district which is zoned for single-family residential use, pro-rated in the case of ownership of partial lots according to the proportion of the original subdivided lot area held, and, for all properties zoned otherwise, to levy and collect annual special assessments equal to one ten-thousandth of a single-family lot assessment for each square foot of land lying less than one hundred twenty (120) lineal feet from any dedicated canal or waterway, or from seawalls or bulkheads abutting Charlotte Harbor; and
- (g) To provide for the levying of such assessments on annual tax bills, as non-ad valorem assessments, in accordance with Florida Statutes.

Sec. 6-37. Same -- annual assessments.

The Burnt Store Isles Canal Maintenance Assessment District shall each fiscal year levy an assessment sufficient to fund the necessary and expected expenses for such fiscal year and to provide a reasonable contingency fund for emergency repairs and replacements necessitated by natural disasters or other calamitous occurrences. Notices of proposed assessments shall be included, as non-ad valorem assessments, on the notices of proposed taxes mailed each year by the Charlotte County Tax Collector. Each year, the governing body of the district shall hold a public hearing on the amounts of assessments, with such hearing to be in conjunction with the City of Punta Gorda budget hearings. The district shall publish a

notice of said public hearing at least five (5) days in advance thereof in a newspaper of general circulation in Charlotte County. At such public hearing, all persons assessed within the district shall have the opportunity to contest the amount of their assessments and the value of the special benefit to their properties upon which such assessment is based.

Sec. 6-38. Same -- finding of special benefit.

In creating the Burnt Store Isles Canal Maintenance Assessment District, the City Council finds and determines that the special benefits to each property owner in the district--through the sharing of costs of maintaining all canals, seawalls, and navigation channels in the district; through the shared use of such canals; by the property value created and enhanced by a functioning, well-maintained and safe canal system; and through the provision of a contingency fund for emergency repairs and replacements necessitated by natural disasters or other calamitous occurrences--exceeds each property owner's share of the costs of the necessary and expected expenses incurred by the district each year.

Sec. 6-39. Same -- use of City employees and equipment.

The City Manager is authorized and directed to use City employees and equipment in assisting the Burnt Store Isles Canal Maintenance District in performing its obligations and duties set out in this article and to charge the district the reasonable costs thereof incurred by the city. By accepting the use of such employees and equipment, the district shall agree to pay such costs, which shall be included in the annual assessments.

(Ord. No. 1156-96 <sec> 3, 07-03-96, Ord. No. 1163-96 <sec> 3, 09-18-96)