

## ARTICLE 8 – STANDARDS OF GENERAL APPLICABILITY

### Section 8.1. Demolition and Relocation of Historic Districts and Landmarks Buildings

- (a) Purpose. Historic and neighborhood conservation districts and historic landmarks are designated by the City of Punta Gorda for the following purposes: *[content being moved from Section 3.14]*
- (1) Protecting and conserving the heritage of the City of Punta Gorda and the State of Florida.
  - (2) Safeguarding the character and heritage of the districts and individual historic landmarks by preserving the character-defining elements of the districts and landmarks that embody important elements of their social, economic, cultural, political, or architectural history.
  - (3) Promoting the conservation of the districts and landmarks for the education, pleasure, and enrichment of their residents, the City of Punta Gorda, and the State as a whole.
  - (4) Fostering civic beauty and pride in local culture and heritage.
  - (5) Stabilizing and enhancing property values within historic and neighborhood conservation districts, thus contributing to the improvement of the general health and welfare of the City of Punta Gorda and its residents.
- (b) Designation of Historic and Neighborhood Conservation Districts.
- (1) Historic and neighborhood conservation districts are defined in two manners:
    - a. A physical perimeter around each district.
    - b. The identification within that perimeter of buildings and structures that have been deemed to contribute to the historic or cultural associations or to the architectural qualities of the district.
  - (2) As of 2022, four districts have been formally established by the City of Punta Gorda, as shown in Section 3.2 of this code:
    - a. The Downtown Historic District, which incorporates and updates the prior National Register (residential) district and small portions of the Downtown district.
    - b. The Main Street District, which incorporates and updates portions of the prior National Register District and Downtown District with a focus on commercial and mixed use properties.
    - c. The Grace Street Mid-Century Historic District.
    - d. The Neighborhood Conservation District, which incorporates and updates the prior Trabue Woods district and Bethel St. Mark district.
  - (3) Additional historic and neighborhood conservation districts may be established using the following procedures, which shall also apply to changes to existing districts:
    - a. The designation of additional districts and changes to existing districts shall be approved by the City County using map amendment procedures in Article 16. No designations or changes shall be approved unless they have been found by the Historic Preservation Advisory Board (HPAB) to have special significance in terms of their historical, archaeological, architectural, or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.
    - b. The HPAB shall make or cause to be made an investigation and report on the historic, architectural, archaeological, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. Such

investigation or report shall be forwarded to the Division of Historical Resources, Florida Department of State.

- c. The Division of Historical Resources shall either upon request or at the initiative of the HPAB be given an opportunity to review and comment upon the substance and effect of the designation of any district or landmark. Any comments shall be provided in writing. If the Division does not submit its comments or recommendation in connection with any designation within 30 days following receipt by the Division of the investigation and report of the HPAB, the board and the City Council shall be relieved of any responsibility to consider such comments.
- d. The City Council shall hold a public hearing on the proposed ordinance. Following the public hearing, the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- e. Upon adoption of the ordinance, the owners and occupants of each designated district or landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the HPAB with the Clerk of the Circuit Court of Charlotte County, and the copy shall be made available for public inspection at any reasonable time. A second copy of the ordinance and all amendments thereto shall be given to the Zoning Official. The fact that a building, structure, site, area, or object has been designated a landmark or within a district shall be clearly indicated on all zoning maps maintained by the City for such period as the designation remains in effect. [relocated from 3.14(b)]

**(c) Designation of Local Register of Historic Places (Local Register)**

- (1) Local Historic Landmarks include buildings and sites of special historic merit that may or may not be within a designated historic or neighborhood conservation district.
- (2) As of [date of code adoption], the City of Punta Gorda has designated a list of Local Historic Register of Historic Places containing XXX structures including all existing structures listed as contributing to the Punta Gorda Residential District [National Register] and the following individually listed structures on the National Register of Historic Places:
  - a. Charlotte High School                      1250 Cooper Street
  - b. Ice Plant                                      408 Tamiami Trail
  - c. Atlantic Coast Line Depot              1009 Taylor Street
  - d. Women’s Club                              118 Sullivan Street
  - e. A.C. Freeman House                      311 W. Retta Esplanade
  - f. Smith Arcade                                121 E. Marion Avenue
  - g. First National Bank of Punta Gorda   133 W. Marion Avenue
- (3) Additional structures may be added to the Local Register by the City of Punta Gorda using the procedures described above for designating historic and neighborhood conservation districts.

**(d) Effect of Historic Designations.**

- (1) Within Traditional Punta Gorda (TPG) district. Historic and neighborhood conservation districts and Local Register listed structures are defined and regulated through special provisions in the TGP base zoning district; see Section 3.2. Certificates of appropriateness may be required for contributing buildings or structures and for visible public improvements that could affect the character of the district in accordance with Section 16.3.
- (2) Outside Traditional Punta Gorda (TPG) district. Historic and neighborhood conservation districts and Local Register listed structures located outside the TPG zoning district will be

shown as overlays on the Official Zoning Map. Certificates of appropriateness may be required in accordance with Section 16.3.

(3) Certificates of Appropriateness Required. A certificate of appropriateness is required for certain alterations to all buildings or structures listed on the Local Register or located in a historic or neighborhood conservation district. Procedures and criteria for certificates of appropriateness are described in Section 16.3.

(e) Special Exceptions and Variances. Any request for a special exception or variance for a building or structure listed on the Local Register or located in a historic or neighborhood conservation district, shall be reviewed by the HPAB at its next regular meeting after the application has been submitted. The HPAB shall forward its comments and recommendations to the Punta Gorda Planning Commission or Board of Zoning Appeals for their formal consideration.  
*[relocated from 3.14(h) (i)]*

(f) General Criteria.

(1) Ordinary Maintenance and Repair. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural features in historic or neighborhood conservation districts or Local Register listed structures which do not involve a substantial change in design, material, or outer appearance thereof (color is not regulated), nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the Zoning Official or similar official shall certify in writing to the Historic Preservation Advisory Board (HPAB) is required by the need to protect the public health and safety because of an imminently dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his or her property not prohibited by other statutes, ordinance, or regulations. Nothing in this section shall be construed to prevent the maintenance or in the event of an emergency, the immediate restoration of an existing component that is essential to protecting the integrity of the building without approval by the HPAB. *[relocated from 3.14(j)]*

~~(2) Application of Artificial Siding. The application of artificial siding, specifically including aluminum and vinyl siding, shall not be permitted on contributing buildings in historic districts, or on historic landmarks, due to its inappropriateness, its potential to damage wood frame buildings, and its destruction of the unique character of wood materials and craftsmanship. However, vinyl siding may be replaced on structures which, as of January 1, 2005, had vinyl siding. Vinyl siding shall meet or exceed the quality standards established under the Historic District Design Guidelines. *[relocated from 3.14(k)]*~~

(3) Parking waiver. Where the HPAB makes a written finding that the number of off-street parking spaces required by this code for a building or structure for which a permit is requested would render the building incongruous with the historic aspects of the district it shall recommend to the City Council a waiver, in part or in whole, of the off-street parking requirements. The City Council may authorize a lesser number of off-street parking spaces provided the Council finds, after public hearing, that the lesser number of off-street parking spaces will not create problems due to increased on-street parking, and will not constitute a threat to the public safety. *[relocated from 3.14(g)]*

(4) Restoration or Reconstruction. Where it is found by the HPAB that an application for a permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original configuration of a Local Register listed structure, such activity may be approved by the City Council following approval by the HPAB, even though it does not meet dimensional regulations of the underlying code.

(1) The City Council, in approving such authentic reconstruction or restoration, may attach reasonable and appropriate conditions to the approval, such that the public health, safety and general welfare shall be protected.

- (2) The City Council shall not be authorized, in action undertaken by this section to approve a use of property which is not a use permitted by right or as a Special Exception within the district in which the property is located.
- (3) In addition to any other condition the City Council may make regarding such authorization, any items restored, reconstructed, or maintained on, over, or within a public sidewalk, public alley area, or other public way shall be the responsibility of the owner, heirs, and assigns. The owner's restoration, reconstruction, or maintenance of any such item within such area shall constitute the owner's agreement to protect and hold the City of Punta Gorda harmless against any and all liability, cost, damage, or expense suffered by the City of Punta Gorda as a result of or growing out of the restoration, reconstruction, or maintenance thereof. Such items, so approved may be lawfully restored, reconstructed, or maintained. Any such items projecting onto the vehicular travel way of a street or alley shall be, at its lowest point, 12 feet above the travel way. [relocated from 3.14(f)]

(g) **Demolition and Relocation.** An application for demolition or relocation of a historic building or structure listed on the Local Register of Historic Places ~~on the National Register of Historic Places, Florida Master Site File, or a Local historic landmark~~ shall be referred to the Historic Preservation Advisory Board for review and recommendation. In all instances the City Council shall have the first right of refusal to purchase or accept for dedication a historic structure prior to issuance of a final demolition permit. See Section 16.5 of this code regarding demolition permits generally.

- (1) (a) ~~Designated Local Register of Historic Places Buildings and Structures.~~ An application for a Certificate of Appropriateness authorizing the demolition or relocation of a structure listed on the Local Register of Historic Places ~~or structure within a historic district~~ may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 18 months from the date of approval. The maximum period of delay authorized by this section shall be reduced by the City Council upon review and recommendation of the HPAB where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the Historic Preservation Advisory Board or its agent may consult with the owner and with any other parties in an effort to find a means of preserving the building. If the Historic Preservation Advisory Board finds that the building has no particular significance or value toward maintaining the character of the district it may recommend that City Council waive all or part of such period and authorize earlier demolition or removal.
- (2) (b) ~~Non-contributing Non-designated Buildings and Structures.~~ An application for a Demolition Permit for a non-contributing building or non-designated structures in a designated historic district and for any [structures which are 50 years of age or older and/or are listed on the Florida Master Site File but not located in a designated district] which do not constitute an emergency situation, shall be delayed for a period of up to 45 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the City Council upon review and recommendation of the HPAB where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the Historic Preservation Advisory Board or its agent may consult with the owner and with any other parties in an effort to find a means of preserving the building.

### **Section 8.3. Exclusions from Height Limits**

The height of habitable buildings and components is controlled by the building type and height limitations listed in Articles 3 and 5. These limitations do not apply to spires, belfries, cupolas, antennas, water tanks, fire towers, ventilators, chimneys, parapet walls, solar panels, mechanical attics, rooftop deck/pool/related amenities, or to other appurtenances usually located above the roof line and not intended for human occupancy, provided such structures do not exceed the height limitations by 20 percent. These limitations do not apply to airport control towers, provided that the heights of these structures shall not exceed height limitations prescribed by the Federal Aviation Agency or airport zoning regulations within the flight approach zone of airports. These limitations do not apply to radio antenna, including associated support structures, utilized by Federal Communications Commission (FCC) licensed amateur radio operators or an operator licensed by the U.S. Department of Homeland Security, U.S. Department of Defense, U.S. Coast Guard Auxiliary, or FCC to assist in national security or emergency communications.

### **Section 8.5. Fences, Privacy Walls, and Hedges.**

(a) **Definitions.**

**Fence.** Any artificially constructed barrier of any material or combination of materials constructed along the full length, or portion thereof, of any or all property line(s), or within the property for the purpose of protection or confinement or as a boundary or for the purpose of blocking part of the property from view or access that is not a privacy wall.

**Fence, Chain-Link.** Fence made of steel wire woven to form a diamond-shaped mesh.

**Fence, Picket.** A fence constructed of upright pickets or pales attached to horizontal stringers between upright posts made of finished wood, vinyl, or metal, with the distance between each picket equaling or exceeding the width of each picket to create visibility between each picket.

**Fence, Stockade.** A fence constructed of vertical wood strips or material similar in appearance placed close together so that it is opaque.

**Fence, Welded Wire or Wire Mesh.** A steel fence using wire strands welded together in a square or rectangular shape which forms a high strength mesh. Welded wire is made of material that will not rust, rot, discolor or burn. Welded wire specifically excludes chain link fence.

**Gate.** A movable frame or solid structure which swings, slides, or rolls controlling ingress and egress through an opening in a fence, wall, or vegetation.

**Hedge.** A group or row of closely planted vegetation that forms a physical or visual fence, screen, or boundary. A hedge can consist of any mixture of plant species that grows to a height of three feet or more.

**Landscape and Xeriscape.** Shall consist of grass, ground covers, shrubs, vines, hedges, trees, berms, and decorative material such as mulch, concrete curbing, and rock. Building and/or zoning permits are required for structural landscaping components such as decks, landscape walls, pergolas, fountains and retaining walls, etc.

**Privacy Wall.** Any artificially constructed barrier of brick, concrete blocks or Styrofoam covered with stucco or other approved finish, constructed within the buildable area of property for the purpose of protection or confinement or as a boundary or for the purpose of blocking part of the property from view or access. A privacy wall that is not a fence but is regulated in a similar manner.

**Visibility Triangle.** For purposes of this Section, The visibility triangle shall be the triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines, with one point 10 feet and one point 35 feet from the point of intersection. The required visibility triangle on a state road is regulated by the Florida Department of Transportation.

~~measured from the point of intersecting right-of-way lines at least 20 feet in each direction.~~

(b) **Regulations.** Hedges, privacy walls and fences are permitted in required yards in accordance with the following restrictions:

(1) **Height of Residential Landscaping.** ~~In single-family residential districts, including the Special Residential Overlay District, hedges and other landscaping located in front yards shall be permitted to any height except within any visibility triangle of any intersection of public or private streets and except as specified below: or driveway.~~

- a. Hedges and landscaping shall not be planted in the City right-of-way. Only sod is permitted to be located in the City right-of-way and requires a permit be obtained from the Building Division.
- b. Hedges and landscaping within the visibility triangle shall be maintained at a height of no more than three feet, or shall be removed or trimmed back from the visibility triangle ~~or clear visibility area~~ to ensure public safety concerns are addressed.
- c. Hedges and landscaping located near any driveway which creates a visual sight barrier for vehicular or pedestrian traffic shall be maintained at a height of three feet or less for a distance of five feet on each side of the driveway and a distance of ten feet from the street yard property line measured toward the house or structure. However, there is no prohibition against a tree trunk within this driveway visibility area.
- d. Individual trees shall be permitted in the visibility triangle or driveway visibility area provided that foliage is cut away between three and eight feet above the average grade of the road as measured at the centerline. The placement of multiple trees in the visibility triangle or driveway visibility area that impair visibility is not permitted.
- e. Hedges in side yards may be of any height, subject to the limitations for tree location stated in Article 12, Section 12.15. Any conflict or objection from the adjacent property owner shall be a civil matter between the neighbors.
- f. Hedges in rear yards of properties abutting a waterway may be of any height but no hedges or other vegetation other than sod is permitted to be placed or maintained within 6 feet of the seawall.
- g. On properties abutting a golf course, another lot or green belt, hedges in the rear yard may be of any height.
- h. For residential properties adjacent to Burnt Store Road, a hedge or tree row of any height shall be permitted to be placed in the yard closest to the right-of-way to serve as a sound and sight barrier.
- i. Hedges and landscaping on all properties shall be maintained in a neat and healthy condition, pruned, or trimmed on a regular basis and maintained free from uncontrolled overgrowth and free of debris, weeds, insects, rodents, snakes or other types of pests and vermin.
- j. Failure to maintain any hedges or landscaping on any property shall be a violation of this Section.

These restrictions are applicable only to ~~single-family or duplex residences~~ residential buildings on individual lots. Most multi-family buildings with five or more units and non-residential developments are subject to an approved landscape plan as part of the required Development Review process.

- (2) **Height of Residential Fences and Privacy Walls.** In residential districts, the maximum height for fences and privacy walls shall be four feet along waterways, front yards, or side yards; and six feet along rear yards, except as otherwise provided for in the Special Residential Overlay District. Fences placed within the buildable area of the property or for any residential yard which abuts the City's Linear Park may be up to six feet in height. ~~Fences which are six feet in height shall not extend beyond the architectural front of the structure in the street yard without City Council approval.~~
- a. Side yard fences may be up to six feet tall under certain conditions:
    - i. For corner lots ~~within the Neighborhood Residential Zoning District~~, fences shall be permitted to a height of six feet and shall be permitted to be located on the property line when the fence is located behind the architectural rear of the house on the secondary street frontage, provided that visibility triangles are not obstructed.
    - ii. Fences located in side yards between all properties may be up to six feet in height but must be held back a minimum of thirty-five feet from the primary street frontage. In no case shall a fence six feet in height extend beyond the architectural front of the structure without City Council approval.
    - iii. The primary street frontage shall be defined as the side of the structure that is the architectural front of the house. The secondary street frontage shall be defined as the architectural side of the house.
  - b. Fences along front, side, and street yards shall be finished wood, metal, including welded wire with black or green finish when constructed as part of a post and rail fence, vinyl, or similar material. See also subsection (9) below.
  - c. The use of unfinished or bare wood, chicken wire or agricultural grade fence material is specifically prohibited. The use of chain link fencing along street yards is prohibited, except as specifically permitted herein.
  - d. Vinyl coated chain link fence may be approved in street yards for uses such as school playgrounds and/or outdoor recreation areas, such as but not limited to tennis courts, pickleball courts, basketball courts and racquet ball courts upon City Council review and approval. Conditions including removal of said fence upon any change of use or ownership may be placed upon any approval. Fences for recreation areas which exceed 4 feet in height must be set back a minimum of 25 feet from the property line. Applications for such approval are available upon request at the Urban Design Division. Said requests shall be heard at the next regularly scheduled City Council meeting.
  - e. Fences shall be installed with the posts or structural supports inside and the finished surfacing facing the adjacent properties and public rights-of- way.
  - f. All privacy walls and fences shall be maintained in sound condition and good repair no matter when they were constructed. Any fence or privacy wall found to be in disrepair must be repaired or removed within 14 days of written notification to the property owner.
  - g. Residential fences and privacy walls in the visibility triangle must follow the same height limitations that apply to residential landscaping; see subsection (b)(1) above.
- (3) **Height of Non-residential Landscaping, Fences, and Privacy Walls.** In non-residential districts and for non-residential uses within residential districts, fences and privacy walls shall not exceed eight feet in height in rear yards and four feet in height in other applications unless the fence or privacy wall is placed within the buildable area of the property. Fences or privacy walls within the buildable area of the property may not exceed six feet in height. Fences along front, side, and street yards shall be brick, stucco, wrought iron, stone, metal, vinyl, finished wood or similar combination. Non-residential landscaping, fences, and privacy walls must also meet the intersection visibility requirements in Section 8.18, and, if applicable, the parking lot screening requirements in Section 4.27. The Zoning

Official or designee shall determine if the visibility triangle is adequate for roadway speed and intersection design. If the Zoning Official or designee determines the visibility triangle is insufficient for roadway speed and intersection design, the visibility triangle shall be adjusted to ensure pedestrian and vehicular safety.

- (4) **Non-residential Fence Materials.** Security fencing, when required by the Fire Code, State or Federal laws, shall be vinyl or finished wood solid panel, welded wire, metal mesh or metal picket and may be up to eight feet in height in any yard. Chain link, electrically charged and barbed wire are specifically prohibited. All metal fence types shall have a finish that is either black, bronze, brown, green, or white.
- (5) **Measurement.**
  - a. The height of a fence, hedge or privacy wall shall be measured from the contour of ground at the fence, hedge, or privacy wall location. However, if the Zoning Official determines that the ground level has been altered so as to provide for a higher fence, hedge or privacy wall, the Zoning Official shall determine the ground level for purposes of measuring the fence, hedge, or privacy wall height.
  - b. In determining whether the ground level has been altered for the purpose of increasing the height of the fence, hedge or privacy wall, the Zoning Official may consider, but is not limited to, consideration of the following facts:
    - (i) General ground elevation of the entire lot.
    - (ii) In the case of a lot with varying ground elevations, the ground elevation at the fence, hedge, or privacy wall location and at points in the vicinity of the fence, hedge, or privacy wall location.
    - (iii) The ground elevation on both sides of the fence, hedge, or privacy wall location.
  - c. In measuring the fence, hedge or privacy wall height, the ground elevation on the side of the fence, hedge or privacy wall location that is at the lowest elevation shall be used as the point from which the fence, hedge or privacy wall height is to be measured.
- (6) **Clearance.** All privacy walls, gates, fences, plant material, and all other landscaping improvements shall be placed so as not to block any Fire Department appliances (fire hydrants and Fire Department Connections), when constructed or planted and/or mature. The minimum clearance around all Fire Department appliances shall be seven and one-half feet on each side, seven and one-half feet in front, and four feet in the rear.
- ~~(7) Fences, hedges and privacy walls shall not be placed in a manner that obstructs the visibility triangle. The Zoning Official or designee shall determine if the visibility triangle is adequate for roadway speed and intersection design. If the Zoning Official or designee determines the visibility triangle is insufficient for roadway speed and intersection design, the visibility triangle shall be adjusted to ensure pedestrian and vehicular safety.~~
- (7) ~~(8)~~ **Landscaping Along Fences and Privacy Walls.** For any fence or privacy wall in excess of four feet in height, the property owner shall landscape the area between the street side of the fence or privacy wall and the right-of-way line. The required landscaping shall include sufficient quantities, types, heights, and densities of materials to provide at least 50% opacity within five years of planting, and shall be maintained at 50% or greater opacity thereafter. It shall include a minimum of three shrubs, twenty inches in height in a minimum three gallon container size for each fifteen linear feet of the fence or privacy wall. Alternative plant material providing equivalent opacity may be used with approval of the Zoning Official. It shall be the responsibility of the property owner to maintain the required landscaping. Existing vegetation or plant material in the landscape area may be used to satisfy all or part of the landscaping requirement.



- (8) ~~(9)~~ **Materials for Wood Fencing.** All wood fencing shall be constructed using new decay-resistant or pressure-treated material and shall be finished with either a clear coat wood stain or be painted and maintained without discoloring or rotting wood.
- (9) ~~(40)~~ **Materials for Privacy Walls. Masonry or Similar Materials.** Masonry, stucco, or similar hard surfaces shall have a decorative finish. Paint only shall not be considered a decorative finish. The decorative finish on a privacy wall shall be maintained in its original permitted condition.
- (10) ~~(44)~~ **Drainage.** No fence, hedge or privacy wall shall be constructed or installed in such a manner as to interfere with drainage on the parcel. Fences, hedges, and privacy walls shall not be installed in curbing running the length of any property line.

**Section 8.6. Live - Aboard Boats, Houseboats, and Other Watercraft**

Living aboard is prohibited in any district except ~~as provided in the MP zoning district~~ or within a marina or mooring field approved by the City Council in accordance with the following procedures and standards. All applications for approval of live-aboard marinas or mooring fields shall be filed with the Urban Design Manager in a form prescribed by the Manager, accompanied by such plans and specifications as may be required. If upon preliminary examination of the application the Manager finds that the proposed marina or mooring field will meet all the requirements of this ~~code Ordinance~~, he shall forward the plans to the Development Review Committee for their approval so that the City Clerk shall cause the matter of approval to be set for public hearings by the Planning Commission and the City Council and shall advertise notice thereof in a newspaper of general circulation within the City not less than 15 days before the date set for public hearings by the Planning Commission and 30 days for the City Council.

- (a) Upon the holding of such hearings, such use may be allowed if it is determined that the use as proposed will meet all the standards hereinafter set forth and it is also found that: *[no changes to this subsection]*
- (b) No marina shall be approved for live-aboard use unless it provides: *[no changes to this subsection]*
- (c) Each marina owner or operator shall have posted in the marina and shall enforce rules providing for at least the following: *[no changes to this subsection]*

**Section 8.13. Soil Conservation [provisions relocated to Article 12]**

Erosion control devices [e.g., sediment barriers] shall be installed at the development site prior to any excavating, clearing, grading, or filling activities. All excavated, cleared, graded, or filled areas, subject to any erosion by wind or water prior to the establishment of a finished grade, agricultural crops, or perennial vegetative cover shall be stabilized. Stabilization shall commence immediately following excavating, clearing, grading, or filling activities.

- (a) ~~Except within the Groundcover Exemption Area, all drainage facilities as defined herein, located along the seawalls and in the rights-of-way shall be sodded. Drainage facilities located in side yards shall be sodded or planted with approved ground cover or living plants that will provide adequate drainage.~~
  - (1) ~~In lieu of sod or other approved living vegetation, draining facilities located in side yards of single family residential properties may be covered in landscape rocks subject to the following limitations:~~
    - a. ~~The landscape rock shall be confined so the rock does not extend beyond the architectural front and rear of the structure.~~
    - b. ~~The rock area in the side yard must be bordered in the front and rear yards by grass or other approved vegetation that will provide adequate filtration for stormwater.~~

- c. ~~Landscape rock in lieu of vegetation or approved groundcover is not permitted in any street yard.~~
  - d. ~~Confining the rock by landscape border not exceeding 4 inches in height is permitted in this area.~~
  - e. ~~The landscape rock area must be completely covered so that no exposed soils are visible.~~
  - f. ~~The use of stepping stones in the side yard is permitted, provided they are adequately spaced to allow stormwater drainage.~~
  - g. ~~Paver walkways or other permanent walkways must maintain the 3 foot side yard setback, unless otherwise specifically permitted herein.~~
- (2) ~~Landscape plans must be designed by a qualified professional such as registered landscape architect, master gardener, certified arborist or certified landscape designer and submitted for approval along with the submission of an application for a building permit. All such plans shall be reviewed by the appropriate City departments including Public Works Engineering, Canal Maintenance, Urban Design and the Zoning Official or designee, pursuant to Article 12 of this Chapter, and approved before the issuance of a building permit.~~
- (3) ~~Groundcover Exemption Area is a geographical area of the City bounded on the North by West Retta Esplanade, on the East by Cross Street, on the South by West Virginia Avenue and on the West by Shreve Street.~~



- a. ~~Within the Groundcover Exemption Area yards may be hardscaped or xeriscaped for the entire yard area. Trees and shrubbery are required to be incorporated within the yard in accordance with the provisions herein. Plant material used within this Groundcover Exemption Area are limited to those species identified by the University of Florida IFAS Extension as native Florida Freshwater Wetland Plants or Florida Friendly Plants as pre-approved by Urban Design and the Zoning Official or designee.~~
- (b) ~~Mulch materials used in drainage areas around plants shall be organic mulch, such as pine straw or needles, shredded eucalyptus or shredded melaleuca mulch or equivalent shredded organic mulch.~~
- (c) ~~Organic mulch in the drainage area shall be permitted only as needed around living ground cover or living plants. Using only mulch, with no ground cover or living plant material is prohibited in any yard, except landscaping rock is permitted in side yards, as specifically permitted herein. Landscape planting must meet requirements found in Article 12 of this Chapter. No more than 10% of the required yard shall be covered in organic mulch unless the design is provided by a registered landscape architect and approved by Public Works Engineering, Canal Maintenance and Urban Design.~~

- (d) ~~Inorganic mulch, such as, but not limited to, stone and shell, etc. is not recommended and shall not be permitted in the right-of-way or within six feet of the seawall or in any drainage area except landscape rock in side yards, as specifically permitted herein.~~
- (1) ~~Inorganic mulch may be used as accent material within landscaped areas of the yard; however, such use is limited to no more than ten percent of the total required yard area and shall not be placed in any drainage area, except landscape rock in side yards, as specifically permitted herein, but not within six feet of the seawall.~~
- (e) ~~Drainage facilities with seasonal ground water levels apparent shall be sodded to the existing water elevation. All drainage leaving denuded development sites shall be filtered by sediment barriers. When natural drainage paths cross the site, temporary stormwater control measures such as turbidity screens/siltation barriers shall be used.~~
- (f) ~~For the purpose of this Section, drainage facilities are defined as follows:~~
- (1) ~~The street yard right-of-way area commonly known as the swale, which is the land that lies between the street yard property line and the edge of the pavement;~~
- (2) ~~A three foot wide strip of land running along side yard property lines between properties (creating a six foot wide drainage area); or~~
- (3) ~~Six feet of land running parallel with and along all seawalls.~~
- (4) ~~Multi-family and commercial development projects and private lands designated as "greenbelts" are regulated by a separate stormwater permit issued by the Southwest Florida Water Management District (SWFWMD) and are not subject to this Section.~~
- (g) ~~For the purpose of this Section, landscape rock is defined as:~~
- (1) ~~Loose rock, river rock or gravel, with each piece not exceeding 3 inches +/- in diameter, which allows stormwater to easily drain into the soil.~~
- (h) ~~All slopes shall be stabilized in accordance with best management practices and this Code.~~
- (i) ~~Clearing of non-agricultural land shall conform to the parameters of this Section unless a stricter development plan requirement applies.~~
- (j) ~~Wetlands shall be protected from degradation of natural resources.~~
- (k) ~~Any development exhibiting denuded soil shall employ dust control measures as deemed appropriate by guidelines of the Department of Environmental Protection.~~
- (l) ~~To the extent practicable, the topsoil which occurs on a site prior to development shall be retained or stockpiled throughout development of the site such that it will not be buried during the placement of fill. Following fill placement, and prior to landscaping, stockpiled topsoils shall be redistributed over the exposed, filled portions of the site. In no event shall the preceding be interpreted to require grade change within the dripline of trees to be preserved, nor the stockpiling of topsoils from any portion of the site which will not be filled.~~
- (m) ~~Any development site which is identified by the DEP as devoid of native topsoils shall be exempt from the requirements of this subsection.~~

## **Section 8.14. Structures and Uses Limited in Yards**

No principal building or structure shall be located within any required setback or yard, within any setback or yard established by a recorded plat or recorded easement, nor in any required buffer or screen as of the date of adoption of this Code, except as otherwise provided in the Special Residential Overlay District. Under appropriate circumstances, however, in order to reduce a particular hardship upon a property owner, the City Council may authorize the issuance of an Occupation of Easement to permit limited encroachments within recorded drainage/utility easements. In no instance shall any permanent structures, other than roof overhangs or eaves which are at least eight feet above grade, encroach into any easement in use. In some cases, the Traditional Punta Gorda (TGP) zoning district provides standards that differ from the standards described in this section; in the case of direct conflicts, the TGP standards will apply within the TGP zoning district.

- (a) Off-street parking areas, maneuvering areas for parking, and loading areas are prohibited in the established front building setback, in any established side yard abutting a street, and in any required buffer or screen. This restriction shall not apply to:
  - (1) A driveway which crosses a front yard to provide access from the street to a parking area; or
  - (2) An individual driveway, including conventional appurtenances thereto such as basketball goals, designed to also serve as a parking area for a detached or duplex dwelling; or
  - (3) Plazas associated with civic buildings or campus quadrangles that have been designed and approved for occasional use as secondary parking areas;
- (b) No outdoor storage of goods and materials or refuse containers shall be located in any yard, as defined in this Chapter, which is visible from the public right-of-way or adjacent properties (when viewed at ground level), or abutting a street, nor in any required buffer or screen, except for the temporary placement of refuse for scheduled curb side collection.
- (c) Non-permanent structures in required front and rear yards, such as patios and walks made of paver blocks, landscape curbing and concrete curbing and other miscellaneous structures of an accessory nature are permissible. Structures shall not be elevated greater than two feet above existing grade, shall not exceed ten percent of the open space yard requirement and will require a no-charge permit to determine acceptability of the construction.
- (d) Notwithstanding other provisions of this Section, architectural features such as cornices, eaves, bays, awnings, and gutters may project up to three feet into an established or required yard, provided that where the yard is five feet or less in width such projection shall not exceed one-half the width of the yard. Chimneys, fireplaces, or pilasters may project not over two feet eight inches into a required yard.
- (e) Above ground backflow preventers are expressly prohibited in the established front yards of buildings where underground backflow preventers or a location outside of the established front yard is technically feasible according to the standards and requirements of the City of Punta Gorda Utility Department. Where there is no reasonable alternative to locating an above ground backflow preventer in the established front yard, the structure housing the device shall be covered in a non-reflective material and shall be surrounded on all sides visible from public streets and abutting properties, by an opaque landscaped screen.
- (f) Fire escapes, stairways and balconies which are unroofed and unenclosed may project not over five feet into a required yard provided that where the yard is five feet or less in width, such projection shall not exceed one-half the width of the yard. Balconies in side yards of multiple-family dwellings, hotels and motels, which are unroofed and unenclosed, may project not over four feet unless otherwise specifically permitted.
- (g) Fences, hedges and children's play equipment and other customary yard accessories, ornaments, statuary, and furniture, excluding decorative columns or walls, are permitted in any yard subject

to all applicable provisions of this Code including but not limited to height limitations and requirements limiting obstructions to visibility. Man-made water features, such as small ponds and fountains are permitted in front or rear yards, but are required to adhere to the 25 foot rear yard setback when located on a property abutting a canal or waterway. Any such water feature must be maintained with aerators and/or chemicals and not be permitted to become breeding grounds for mosquitoes or become stagnant.

- (h) Boat lifts, davits, walks, and yard lights are permitted subject to the following limitations:
  - (1) Yard lights shall not exceed six feet in height from grade.
  - (2) Walks shall not exceed six inches above grade, shall not exceed five feet in width and shall be setback at least three feet from any property line. Notwithstanding the foregoing, a no-charge zoning permit may be granted by Urban Design to allow a non-permanent paver or brick walkway from the side garage door to the closest point of the driveway that may encroach up to seven (7) feet into the required side yard, provided a minimum of six (6) inches remains between properties as an approved ground cover or sod. The zoning permit shall contain the condition that if any utility or drainage work is needed to be done in this area, the property owner shall bear all costs of removal and replacement of any walk which is located within the utility and drainage easement, or in absence of an easement, within 3.5 feet of the property line.
- (i) Equipment for swimming pools, solar installations, air conditioning units, generators and garbage receptacles are permitted to encroach four feet in side yards provided that where the yard is five feet or less in width, such projection shall not exceed one-half the width of the yard. Equipment for swimming pools, solar installations, generators, and air conditioning units are permitted to encroach four feet in rear yards provided that where the yard is five feet or less in width, such projection shall not exceed one-half the width of the yard. For each new construction outside of the Special Residential Overlay district, equipment and garbage receptacles shall be screened from view at grade from the public right-of-way with one of the following screening methods, provided no wall or fence panel screened area shall exceed six feet in height above finished grade, eight feet in length or the length of the equipment, whichever is less, and four feet in width:
  - 1. With 100% landscaping at time of installation and maintained in such condition;
  - 2. A combination of landscaping or architecturally compatible fence material or wall;
  - 3. A wall architecturally compatible with the structure or an opaque fence panel.
- (j) Rain barrels are permitted to encroach four feet in side or rear yards provided that where the yard is five feet or less in width, such projection shall not exceed one-half the width of the yard. Rain barrels must be covered with a screen to allow the water to get in, but to prevent the breeding of mosquitoes if the top is open and no lid is used. If the barrel has an overflow on the side, it must have screening as well. If the rain barrel lid is fitted to feed directly from a downspout, and there are no other openings, screening is not required.

A maximum of four rain barrels are permitted per property. Rain barrels may not exceed 55 gallon in size. No more than two rain barrels shall be placed on any one side of the structure. Rain barrels shall be screened from view at grade of adjacent properties and the public right-of-way by landscaping to create an opaque screen at time of installation and maintained in such condition, or by painting the rain barrel the same color as the structure, or a combination of landscaping and painting.
- (k) Nothing in this Code shall be so construed to prohibit landscaping or gardening on any lot.
- (l) Planters in rear yards. Planters are permitted in rear yards only. Planters may encroach a maximum of 2 feet into the required rear yard and may be on a permanent footer as long as the footer is

below grade. Planters are limited to a maximum height of 29 inches lower than the elevation of the adjacent pool deck, patio, or residential structure.

## **Section 8.16. Transfer of Development Rights [TDRs]**

The Transfer of Development Rights means the transfer of the lawful development rights pertaining to the allowable density and/or intensity of use held by a property owner from one parcel of land which is targeted for limited development to another parcel of land, which can accommodate the added development density/intensity permitted on the first parcel. The protection and preservation of certain areas designated for limited development without denying a property owner reasonable use of his land is a valid public purpose and promotes the general health, safety, prosperity, and welfare of the people of the City. More specifically the intent of this Subsection is to promote the protection and conservation of environmentally sensitive areas of the City including, but not limited to, wetlands, mangrove clusters, aquifer recharge areas, endangered species habitats, etc.; to provide an incentive to property owners of historic structures to renovate, repair or restore them; and to establish an incentive for the dedication and/or discounted sale of property to the City for general public purposes such as parks, road rights-of-way, government services sites, public access to the waterfront, affordable housing, etc.

- (a) **Sending Sites.** A sending site means any parcel or area worthy of preservation and/or dedication for public use and benefit. A property owner whose land falls into one of the categories of sending sites listed below is entitled to voluntarily apply for City approval to transfer, convey, or sell development rights to a planned unit development receiving site. In no case shall the City be required to approve a request for the transfer of development rights, and in fact may deny such a request without cause.
- (1) **Environmental Preserve.** Any property designated EP on the Official Map may be eligible for a transfer of up to one residential dwelling unit per ten acres of land to a receiving site.
  - (2) **Historic Structures.** Any property ~~with a~~ listed on the Location Register of Historic Places (see Section 8.1), structure designated as a local landmark; listed on the Florida Master Site File; or contained in the National Register of Historic Places may be eligible for a transfer of development rights to a receiving site equal to the residential density permitted on the sending site minus the existing density, or equal to the square footage of the historic structure if its predominant land use is commercial. In order to be eligible for the historic preservation TDR, a property owner must do major substantial rehabilitation, repair, or restoration work consistent with the provisions of Section 16.3, City's Historic Preservation Ordinance. The property owner must also donate a perpetual conservation easement assuring that the property's historic character will be preserved and restricting the density of the property to the existing density at the time of final TDR approval. The easement must meet the criteria that would make it eligible for a federal tax deduction and must be donated to a recipient qualified and able to enforce the easement. The easement does not need to grant any public access to the property.
  - (3) **Public purposes.** Any property being dedicated or sold to the City, or any other local, State or Federal government agency, at a reduced price for general public use in fee simple title without reverter, may be eligible for a transfer of development rights to a receiving site equal to the residential density permitted on the sending site. If the property being dedicated or sold is zoned for a non-residential use not permitting residential units, then an agreement shall be negotiated as part of the planned unit development process for the amount of commercial square footage to be transferred to the receiving site.
  - (4) **Other Environmental Property.** Any property not coded EP, but having an environmental conservation problem, may be eligible for a transfer of development rights to a receiving site equal to the density permitted on the sending site. Other environmental problems may include preservation of groundwater recharge areas, mangrove stands, beach areas, endangered species habitats, etc.
- (b) **Receiving Site.** Receiving site means the parcel or area suitable to accept added development, usually beyond its permitted zoning density, which has been transferred from a sending site. In all cases receiving sites shall have recorded, in the Official Public Records of Charlotte County, Florida, a covenant identifying the parcel as a receiving site and the total net density increase provided for. All property being proposed as a receiving site for the transfer of development rights

must apply for, receive approval of, and be developed under an approved final site plan or plat as set forth in the criteria of this Code.

- (c) **Application for TDR Approval.** In order for a property owner to request approval from the City to transfer development rights from one parcel to another the following procedures should be followed:
- (1) Prior to filing an application for transfer of development rights approval, a property owner shall initiate a meeting with the Urban Design Manager to receive guidance and information for verifying the property owner's eligibility.
  - (2) The property owner should be prepared to provide a sketch plan indicating the owners name, address, and phone number; proposed sending site location and size; proposed receiving site location and size; and proposed use/s to be placed on the receiving site.
  - (3) Following the TDR verification conference the property owner shall apply for a final site plan or final plat for the proposed receiving site.
  - (4) Upon final approval of the receiving site, the Urban Design Manager shall issue a transfer of development rights voucher to the property owner of the sending site. This voucher shall serve as proof of the approval of the transfer, and shall clearly state the sending site location, receiving site location, and the development rights being transferred. The owner of the sending site may be different from the owner of the receiving site. Upon the issuance of a transfer of development rights voucher to the property owner of the sending site, said owner shall immediately record in the Public Records of Charlotte County, Florida a Notice in the form provided by the City, specifying the applicable reduction in zoning density for the sending site.
- (d) **Use of Transfer of Development Rights.** Upon receipt of a TDR voucher the property owner holding the voucher may dispose of the development rights represented by the voucher in several ways.
- (1) First, if the voucher holder is also the owner or agent of the approved receiving site, then the rights can be transferred directly to the receiving site.
  - (2) Second, if the owner or agent of the approved receiving site is not the holder of the TDR voucher, he or she may acquire or buy development rights held by someone else provided City staff has record of the TDR approval. An example of how this might occur is if several people renovate historic district homes they could be a party to the TDR approval process and then sell their density rights to the owner or agent who received TDR approval for the receiving site. All approved transfer of development rights must be used within ~~five~~ one years of the final approval. The City Council may grant one extension to this time limit upon request by the TDR voucher holder.
- (e) **Recording of a Transfer of Development Rights.** Upon final approval of a transfer of development rights involving the dedication in fee simple of environmental preserve and/or public purpose lands, the TDR voucher shall be recorded with the transfer of title in order to establish the limits of the future use of the property. When a historic structure ~~receives~~ received TDR sending site approval, ~~the a~~-Historic Preservation Conservation Easement and the TDR voucher shall be recorded with the Charlotte County Clerk's Office, ~~which shall require maintenance of the historic structure's facade in perpetuity, and shall restrict the density of the property involved to that existing at the time of final TDR approval.~~
- (f) **Taxation.** For the purposes of taxing a transfer of development rights, a development right shall not be considered intangible personal property subject to ad valorem taxation under Chapter 199, Florida Statutes.



## **Section 8.18. Visibility at Street Intersections, Drives, and Non-Residential Driveways**

Non-residential fences, privacy walls, and landscaping must not interfere with visibility at intersections, defined as the triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines [or a right-of-way line and the curb or a driveway], with one point ten feet and one point thirty-five feet from the point of intersection. The Department of Transportation right triangle is different, with each point being ten feet and seventy feet. There shall be a clear space with no obstruction to vision between a height of three feet and a height of eight feet above the average grade of each road as measured at the centerline thereof. The requirements of this Subsection shall not be deemed to prohibit any necessary retaining wall. Trees shall be permitted in the clear space provided that foliage is cut away within the prescribed heights. Lampposts and street name signposts shall be permitted if illuminating fixtures and nameplates are not within the prescribed clear space.

## **Section 8.19. Waterfront Property**

- (a) **Waterfront Setbacks.** On any lot abutting any creek, canal, river, lake or other body of water, natural or artificial, no building or structure shall be located less than the greater of the distance required by the district classification or 25 feet, [except as specified for special residential districts,] from any seawall, bulkhead or bulkhead line, except that marine business and waterfront industrial uses shall be permitted to build up to a seawall, bulkhead or bulkhead line. ~~[See Chapter 6 of the City Code of Ordinances pertaining to boat docks.]~~
- (1) Setbacks from seawalls will be determined by using property lines as certified by survey when those property lines fall on or waterside of the seawall. When the property lines fall landside of the seawall the center of the seawall will be used for setback measurements.
  - (2) When lot size, shape or site conditions make it infeasible to comply with this regulation, minor modifications of the setbacks from man-made stormwater retention ponds may be permitted if, in the opinion of the Zoning Official, the design and proposed encroachments are appropriate. Whenever the Zoning Official modifies these requirements, the justification for the modification must be entered upon the face of the permit and noted in the landfill.
- (b) **Construction in Waterways.** Chapter 6 provides regulations for the construction of docks, boat lifts, seawalls, and other permitted structures. Section 2-1(c) of Chapter 6 describes the permitted structures in waterways within the Canal Maintenance Assessments Districts. Section 2-1(d) describes the permitted structures in other waterways. Remote docking facilities as defined in Chapter 19 are not permitted.
- (c) **Liveaboards.** See Section 8.6 for regulations for living aboard any watercraft.

## **Section 8.20. Yard Designation**

On lots which abut more than one street, building and lot shall generally front upon the more pedestrian oriented street, given the arrangement of existing and proposed streets and drives, and the orientation of buildings on adjoining lots. Where multiple buildings are permitted on a single platted lot, each building shall generally front upon a pedestrian oriented street, either external or internal to the development; side and rear yard designations shall be determined on the basis of building orientation. On irregularly shaped lots, the location of required front, side, and rear yards will be determined by the Zoning Official. The determination will be based on the spirit and intent of this code Ordinance to achieve an appropriate spacing of buildings and orientation to the street(s). The Traditional Punta Gorda (TGP) zoning district provides slightly different standards for the orientation of buildings on lots; the TGP standards will apply within the TGP zoning district instead of Section 8.20.

## **Section 8.22 Density, Adult Congregate Living Facilities**

~~Density for Adult Congregate Living Facilities, Assisted Living Facilities, and Independent Living Facilities shall not exceed a net intensity of 30 supported dwelling units per acre. For the purpose of this Code a “supported dwelling unit” will mean a room or rooms connected together, constituting a separate, independent housekeeping unit establishment providing sleeping and sanitary facilities, but no and optionally a kitchen, which are for sale or for rent or lease on a weekly, monthly, or longer basis. Kitchens and dining areas shall be centralized to accommodate all residents.~~ All such uses shall require State certifications by appropriate agencies.

## **Section 8.24 Rooming/Boarding House**

A single family home may be used as a rooming/boarding house, if approved by Special Exception in the General Multi-family and Traditional Punta Gorda City Center zoning districts if:

- (1) Single family homes used as a rooming/boarding house may not subdivide existing rooms into less than 150 square feet.
- (2) The rooming/boarding house shall be owner-occupied.
- (3) No more than one person or couple may inhabit a single room.
- (4) All parking shall be to the rear of the home. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking. ~~There shall be one space per room of lodging.~~

## **Section 8.25 Street Frontage Required**

All lots shall have frontage on a public street or on an approved private street, the width of this required street frontage shall be determined by the zoning designation of the property. The Traditional Punta Gorda (TGP) zoning district allows certain building types that do not front on a public or private street; for those building types, TGP standards will apply within the TGP zoning district instead of Section 8.25.

## **Section 8.29 Outdoor Sales Prohibited**

- (a) ~~Except as otherwise authorized pursuant to this Chapter,~~ All sales of merchandise, food, beverages, goods, or services on any private property within the City outside of a permanently constructed building are prohibited, except where explicitly permitted by city codes. Examples of permitted outdoor sales include:
  - (1) Door-to-door selling (Chapter 15, Section 15.45)
  - (2) Businesses with permanently constructed buildings that display some merchandise outdoors, such as garden shops (Chapter 26, Article 3)
  - (3) Merchandise stands for outdoor sale of goods by retail businesses, permitted in various zoning districts (Chapter 26, Article 3)
  - (4) Mobile food dispensing vehicles, as defined in Chapter 26, Section 4.40, and permitted in various zoning districts
  - (5) Special events (Chapter 26, Article 13)
  - (6) Outdoor dining areas, as defined in Chapter 26, Article 19, and permitted in various zoning districts
- (b) – (f) *[no changes to remaining provisions on enforcement and penalties]*