

# Article 8

## Standards of General Applicability

### **Section 8.1. Historic Districts and Buildings**

- (a). Purpose. Historic and neighborhood conservation districts and historic buildings are designated by the City of Punta Gorda for the following purposes:
- (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, and which are listed on the Local Register of Historic Places.
  - (2). 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 Council 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 an investigation or report shall be forwarded to the Division of Historical Resources, Florida Department of State.
  - c. The Florida 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.

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

- (1). Historic places on the Local Register include buildings and sites of special historic merit that may or may not be within a designated historic or neighborhood conservation district.
- (2). The City of Punta Gorda has designated a Local Register of Historic Places containing all structures to which these provisions apply including but not limited to 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 Traditional Punta Gorda (TPG) 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 Traditional Punta Gorda (TPG) base 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 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.
- (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 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.
  - (2). Application of Artificial Siding. The application of artificial siding, including aluminum and vinyl siding, shall not be permitted on structures listed on the Local Register due to its potential to damage wood frame buildings. However, vinyl siding may be replaced on historic structures which, as of January 1, 2005, already had it. Vinyl siding may also be used in new buildings within the Historic Districts Overlay, provided it is of high quality and is designed to match the plank sizes and patterns found in historic wood siding for the chosen architectural style.
  - (3). Parking waiver.
    - a. A request needs to be sent to DRC for technical review, and
    - b. HPAB for comment/recommendation, and
    - c. Planning Commission for comment/recommendation, and
    - d. City Council for decision.

- e. 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 increase on-street parking and will not constitute a threat to the public safety.
- (g). 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.
- (h). Demolition and Relocation. An application for demolition or relocation of a historic building or structure listed on the Local Register of Historic Places 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.



Illumination levels noted in foot candles shall be provided for all parking areas, walkways, building access points and other areas to be illuminated. Foot candle notations are also required to be provided at the property line.

- (c). Fixture Height. Exterior lighting shall be designed, located and mounted at heights no greater than 18 feet above grade for non-cut-off lights, or 35 feet above grade for cut-off lights.
- (d). Lighting Standards. All outdoor lighting for non-residential, mixed-use, and multi-family development shall conform to the following standards with the exception of public street lighting:
  - (1). Maximum illumination measured in foot candles at the property line shall not exceed .3 for non cut-off lights and 1.5 for cut-off lights.
  - (2). Fixtures should be located to provide uniform distribution of light and to avoid intense lighting that produces excessive glare.
  - (3). Lighting fixtures in scale with pedestrian activities shall provide for uniform distribution of lighting to produce minimal shadows.
  - (4). Quantity of fixtures to be provided shall be based upon the desired level of uniform illumination as established.
  - (5). The level of illumination shall be based upon the primary activity in each area to be lighted.
  - (6). Because of their unique requirements for nighttime visibility and limited hours of operation, the lighting of active recreation areas, such as for ball fields and tennis courts are to follow best practices for such illumination depending on the needs of the specific recreational activity and may exceed the fixture height and foot candle at the property line provisions of this article as well as any applicable style and material requirements of Article 7.
- (e). Additional Lighting Provisions.
  - (1). No flickering or flashing lights shall be permitted.
  - (2). Light sources should not be located within any perimeter-landscaped areas except on pedestrian walkways.
  - (3). Holiday lighting shall be exempt from this section.

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

(a). Definitions. Specific definitions pertaining to this Section see Fence, Privacy Walls and Hedges in Article 19 Definitions, Section 19.7 Fences, Privacy Walls, and Hedges (Section 8.5) Definitions

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

- (1). Height of Residential Landscaping. In residential districts, including the Special Residential Overlay District, hedges and other landscaping located in front yards shall be permitted to a maximum height of four (4) feet except within any visibility triangle of any intersection of public or private streets and except as specified below:
  - a. 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. 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 to ensure public safety concerns are addressed.
  - c. 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.
  - d. Individual trees of any height 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. Landscaping in side yards may be of any a maximum height of four (4) feet, 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. Landscaping in rear yards of properties abutting a waterway may be of any height but no 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, landscaping in the rear yard may be of any height.
  - h. For residential properties adjacent to Burnt Store Road, landscaping 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. 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 landscaping on any property shall be a violation of this Section.

These restrictions are applicable only to residential buildings on individual lots. All 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.
  - a. Side yard fences may be up to six feet tall under certain conditions:
    - 1. 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.
    - 2. 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.
    - 3. 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, upon review and approval by the Zoning Official or designee. Conditions for such approval include:
    - 1. Removal of said fence upon any change of use or ownership may be placed upon any approval.

2. Fences for recreation areas which exceed 4 feet in height must be set back a minimum of 25 feet from the property line.
  - 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 Section 8.5 (b). (1). 1. b.
- (3). Height of Non-residential Landscaping, Fences, and Privacy Walls. In non-residential districts and for non-residential uses within residential districts landscaping shall conform to the requirements of Article 12 and the provisions below related to visual sight and including sight visibility. The following shall apply to non-residential Fences and Privacy Walls:
- a. Non-residential 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 or as required by provisions of Article 4 Uses permitted with Conditions or Section 12.4 (f) Buffer Area. Fences or privacy walls within the buildable area of the property may not exceed six feet in height.
  - b. Non-residential fences along front, side, and street yards shall be brick, stucco, wrought iron, stone, metal, vinyl, finished wood or similar combination.
  - c. Non-residential landscaping, fences, and privacy walls must also meet these visibility requirements:
    1. Non-residential fences, and privacy walls within the visibility triangle shall be not be permitted at a height of more than three feet,
    2. Non-residential fences and privacy walls located near any driveway which creates a visual sight barrier for vehicular or pedestrian traffic shall be 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 structure.
    3. Zoning Official or designee may, based on a determination that these visibility requirements are inadequate or excessive given site specific conditions or uses may adjust the visibility requirements accordingly with the concurrence of the Public Works Director or designee.
  - d. Non-residential fences, and privacy walls must also meet the screening requirements in Article 12 Landscaping Standards or Article 4 Uses

Permitted with Conditions, as applicable.

- (4). Non-residential Security 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, razor wire, and barbed wire are specifically prohibited. All metal fence types shall have a color finish.
- (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:
    1. General ground elevation of the entire lot.
    2. 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.
    3. 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). 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 conform to the Landscape Buffer requirements of Section 12.4 (f). (2). a.
- (8). 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). Materials for Privacy Walls. 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). 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 within a marina or mooring field as approved by the City Council in accordance with the procedures and standards of Section 16.8 Application for Special Exception

**Section 8.7. Manufactured Homes**

- (a). Manufactured Homes in MH districts shall be limited to one-story units with customary additions including cabanas, carports and storage units which are manufactured for the specific purpose of combination.
- (b). Recreation travel trailers, as defined in these regulations, shall be allowed only in a MH district.
- (c). Manufactured Homes used for temporary construction offices [not used for a living unit] on a job site shall be permitted in any district during construction under a valid building permit, and shall be removed from the premises before the Certificate of Occupancy is issued.
- (d). Commercial storage of unoccupied travel trailers and manufactured homes shall be allowed only in SP districts:-

**Section 8.8. Miscellaneous Structures**

Upon approval of the City Council, school bus shelters may be located in any district.

- (a). No advertising sign shall be permitted on such structures in a residential district.
- (b). Locations and setbacks shall be approved by the Development Review Committee.

**Section 8.9 Model Dwelling**

A model dwelling means a residential structure used for demonstration and sales purposes, not occupied as a dwelling unit, and open to the public for inspection.

- (a). Model dwellings may be permitted in areas coded residential, after obtaining a building permit in accordance with all lot and building requirements and

requirements applicable to the district in which the model is located.

- (b). Model dwellings, shall not be used as a contractor's office, a general real estate office, resale listing office, or any other type non-residential use.
- (c). Parking or loading areas shall be provided in a manner that does not requires vehicles to back out into the public rights-of-way, or that requires vehicles to enter or exit a site in a manner which would require them to make an unlawful maneuver within the public right-of-way.

**Section 8.10. Parking of Trucks, Trailers and Recreational Vehicles**

- (a). It shall be unlawful for any person, company or corporation to park any truck, trailer, wagon or recreational vehicle on any public right-of-way within any residential district except when such vehicle is being parked temporarily for the purpose of making deliveries or for the purpose of providing services to adjacent residential property. In no case may such vehicles be parked overnight.
- (b). It shall be unlawful for any person, company or corporation to park trucks, recreational vehicles or trailers which have multiple axles (or two rear wheels per side) overnight on public or private property, in other than SP Zoning Districts for which a valid Local Business Tax Receipt has been issued for vehicle storage. Delivery or service vehicles used by local commerce and parked on the business property in a manner which does not violate any other provision of this Code and government vehicles are exempt from the provisions of this Section. This Section shall not apply to pickup trucks of one ton or less with or without two rear wheels on each side. Notwithstanding anything in this Section to the contrary, this Section shall not prohibit the parking of one recreational vehicle and one watercraft trailer with or without multiple axles, or a non-commercial utility trailer with no more than one axle, or a combination of no more than two trailers on the private residential property of the owner of said vehicle and trailer, unless otherwise prohibited elsewhere in this Code. It shall be necessary to obtain a Temporary Use Permit to park a truck, recreational vehicle or trailer at a time or location otherwise prohibited by this Section.
- (c). For the purposes of this Section, a commercial trailer or converted private vehicle, by whatever name designated, include vehicles which have been partially or completely converted from a private vehicle to a vehicle used for transporting goods or articles [such as ladders, wheelbarrows, tools, equipment, supplies or other materials] if such vehicle so converted is used in or incidental to the operation of a business.

**Section 8.11. Property Maintenance**

The requirements contained herein shall become effective upon adoption of this Ordinance.

- (a). A structure shall have no more than 20 percent of its exterior roofs, or exterior

walls or other elements of the structure covered with dirt or mold, or be disfigured, cracked, or have peeling surface materials for a period of more than 30 consecutive days.

- (b). A structure shall not be maintained with any of the following defects for a period of more than 30 consecutive days:
  - (1). Broken windows
  - (2). Holes in exterior surfaces including screens, or roofs or walls, or ripped awnings, or loose materials, or loose elements or other obvious exterior defects.
  - (3). Exterior materials shall form a weather tight surface with no holes, excessive cracks or decayed surfaces that permit air to penetrate rooms where such rooms are designed, used, permitted or intended for human occupancy or use.
- (c). A yard structure shall not have grass, weeds, vines, or other vegetation growing upon it greater than 12 inches in height in an untended manner for a period of more than 10 consecutive days.
- (d). All site lighting, parking areas, including fences, railings, driveways, curbs, wheel stops, sidewalks, gutters, storm water management areas and systems and other improvements and appurtenances shall be maintained in working order and reasonably free of defects.
- (e). The owner shall maintain all required landscape areas, trees and shrubs in a neat and healthy condition free of diseased, dead, or bare areas and free of debris and weeds.
  - (1). It shall be unlawful to allow or permit dead trees and/or dead vegetation to remain on any lot or parcel.
  - (2). Tree stumps must be cut below existing grade or removed upon tree removal by stump grinding or other appropriate method so that any remaining stump is at least two inches below grade. A tree stump hole must be filled with soil or combination of soil and mulch to match existing grade.
  - (3). If a large area of the property is disturbed and has exposed soils after removal of the dead tree or dead vegetation, sod must be placed over the exposed soils.
  - (4). If the removal is required to prevent or remedy a code violation, no tree removal permit is necessary for the removal of the dead tree or dead vegetation.
  - (5). Replacement of dead trees or vegetation is not required for vacant undeveloped land.

- (f). Dead landscape shall be replaced as necessary to maintain compliance with the regulations contained herein.
- (g). The property owner shall maintain the property and the exterior portions of any structures thereupon free of accumulations of debris, junk, garbage, or trash including but not limited to discarded furniture and other household goods, inoperative appliances, inoperative vehicles, and inoperative equipment except within approved dumpsters or trash enclosures, enclosed storage areas or on land approved for the operation of a junk yard.

**Section 8.12. Sales within Public Right-of-Way or Other Public Places and Parks**

- (a). Except as otherwise authorized by this Chapter or by the City Council, the sale of merchandise from within the limits and confines of any public roads or street rights-of-way, park or any other public place lying within the jurisdiction of this Ordinance is prohibited.
- (b). As used in this Section, the term “public place” means an area owned by any governmental entity or reserved for the use of members of the public and includes, but is not limited to, streets, roads, rights-of-way, schools, parks and playgrounds.

**Section 8.13 Reserved**

**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 (TPG) zoning district provides standards that differ from the standards described in this section; in the case of direct conflicts, the TPG standards will apply within the TPG 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 permitted with the following requirements:
- (1). Shall not be elevated greater than two feet above existing grade
  - (2). Shall not exceed ten percent of the open space yard requirement
  - (3). Require a no-charge Zoning 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 under the following conditions
- (1). Up to three (3) feet where the required yard is five (5) feet or greater.
  - (2). Up to one-half the width of the required yard where said requirement is five (5) feet or less. Chimneys, fireplaces or pilasters may project not over two feet eight inches into a required yard.
- (e). Backflow preventers shall be permitted in required yard under the following conditions:
- (1). Where underground backflow preventers or a location outside of the established front yard are technically feasible according to the standards and requirements of the City of Punta Gorda Utility Department.
  - (2). Where there is no reasonable alternative to locating an above ground backflow preventer in a required yard, it shall be from public streets and abutting properties, by a landscaped screen consistent with the requirements of Article 12 Landscaping Standards.



- (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 but may extend into the right of way under the provisions of the Traditional Punta Gorda Zoning District. 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). 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.
- (h). 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.
- (i). 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:
    - a. Not exceed six inches above grade
    - b. Not exceed five feet in width
    - c. Be setback at least three (3) feet from any property line.

Notwithstanding the foregoing, a no-charge zoning permit is required 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.

- (j). 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.
- (k). Rain barrels are permitted under the following requirements:
- (1). May encroach four feet in side or rear yards where the required yard is greater than five (5) feet.
  - (2). In a required yard five (5) or less, such encroachment shall not exceed one-half the width of the yard.
  - (3). 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.
  - (4). 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.
  - (5). A maximum of four rain barrels are permitted per property. Rain barrels may not exceed 55 gallon in size.
  - (6). No more than two rain barrels shall be placed on any one side of the structure.
  - (7). 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.
- (l). Nothing in this Code shall be so construed to prohibit landscaping or gardening on any lot.
- (m). Planters are permitted in rear yards only.
- (1). 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.
  - (2). Planters are limited to a maximum height of 29 inches lower than the

elevation of the adjacent pool deck, patio, or residential structure.

### **Section 8.15. Swimming Pools**

Swimming pools shall meet these regulations and any and all pertinent State or Federal regulations. All swimming pools shall:

- (a). Be completely enclosed by a fence or wall not less than four feet high measured from the pool deck, or a screened enclosure.
- (b). Screened enclosures over and around swimming pools shall comply with the yard and setback requirements of each individual zoning district within which they fall.
- (c). Lights used to illuminate any swimming pool shall be so arranged and shadowed as to reflect light away from adjoining premises.

### **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 preserve historic structures 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 listed on the Local Register of Historic Places (see Section 8.1), 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 rehabilitation work consistent with the provisions of Section 16.3. 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 Zoning Official 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 TDR sending site approval, the Historic Preservation Conservation Easement and the TDR voucher shall be recorded with the Charlotte County Clerk's Office.
- (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 8.17. Underground Utilities**

The appearance of the streets in the City of Punta Gorda and adjacent areas is an important part of the image of the City of Punta Gorda. Aerial utilities add to the visual clutter along these streets and thereby detract from the aesthetics of the community. It

is the intent of the City to require all new utility distribution and service lines in the community to be placed underground.

- (a). **Distribution and Service Line Crossings.** All new utility distribution line and service line crossings of public rights-of-way and property shall be placed underground. No new public utility distribution or service line shall cross any public right-of-way within the City without first obtaining a written permit from the Director of Utilities, or designee, in compliance with the provisions of this Ordinance.
- (b). **Distribution Systems.** All distribution systems, whether wire, pipeline, coaxial, fiber-optic cable or other, shall be underground unless unfeasibility of such installation has been documented and the documentation accepted as satisfactory by the Development Review Committee (DRC). In making this decision on the adequacy of the documentation and appropriateness of the request, the DRC shall consider the following factors:
  - (1). Terrain
  - (2). Impacts on other customers
  - (3). Load characteristics
  - (4). Reliability
  - (5). Accessibility
  - (6). System flexibility
  - (7). Equipment availability
  - (8). Safety
  - (9). Timing
  - (10). Excessive conflicts with other utilities
- (c). **On-site Service.** Within any new development, all utilities installed to serve the project shall be placed underground without expense to the City.

**Section 8.18.                    Reserved**

**Section 8.19.                    Waterfront Property**

- (a). **Waterfront Setbacks.** On any lot abutting any creek, canal, river, lake or other body of natural or navigable water, no building or structure shall be located less than the greater of the distance required by the Zoning Regulating District or

Overlay 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.

- (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). Modifications of the setbacks from man-made non-navigable body of water including but not limited to stormwater management ponds or lakes 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 public records of the City.
- (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). Live aboards See Section 8.6 for regulations for living aboard any watercraft.

**Section 8.20.                      Reserved**

**Section 8.21                      Reserved**

**Section 8.22                      Adult Congregate Living Facilities**

For the purpose of this Code a “supported unit” will mean a room or rooms connected together, constituting a separate, independent housekeeping unit providing sleeping and sanitary facilities and optionally a kitchen, which are for sale or for rent or lease

- (a). Adult Congregate Living Facilities, Assisted Living Facilities, and Independent Living Facilities shall not exceed a net intensity of ~~30~~ supported dwelling units per acre not exceeding twice the number of dwelling units per acre permitted by the Zoning Regulating District or Overlay.
- (b). 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 Traditional Punta Gorda zoning districts if:

- (a). Single family homes used as a rooming/boarding house may not subdivide existing rooms into less than 150 square feet.
- (b). The rooming/boarding house shall be owner-occupied.
- (c). No more than one person or couple may inhabit a single room.
- (d). 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.

### **Section 8.25**                      **Street Frontage Required**

- (a). 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.
- (b). The Traditional Punta Gorda (TPG) zoning district allows certain building types that do not front on a public or private street; for those building types, TPG standards will apply within the TPG zoning district instead of Section 8.25.

### **Section 8.26**                      **Temporary Structures Prohibited**

A structure without any foundation or footings and that is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

- (a). This includes a moveable structure while it is located on land which can be used for housing, business, commercial or office purposes either temporarily or permanently.
- (b). Temporary structures are prohibited in all zoning districts unless a temporary use application has been approved by the Zoning Official and a temporary use permit has been issued, as well as any other applicable permits or licenses are obtained.

### **Section 8.27**                      **Outdoor Dining, Local Exemption to Allow Dogs in Designated Areas**

Public restaurants that have a valid Business Tax Receipt, and have received a permit pursuant to this subsection are exempt from those sections of the Food and Drug Administration Food Code that prohibit live animals in restaurants.

- (a). Reserved
- (b). No dog shall be in a restaurant unless allowed by State law and the restaurant has received and maintains an unexpired permit pursuant to this Subsection allowing dogs in designated outdoor areas of the restaurant.
- (c). Restaurants must apply for and receive a permit from the City of Punta Gorda



Urban Design Division before patrons' dogs are allowed on the premises. The City Council may adopt a reasonable fee by resolution to cover the cost of processing the initial application, permitting inspections, renewals and enforcement. The application for a permit shall require the following information:

- (1). Name, location, mailing address and Division issued license number of the restaurant.
  - (2). Title, name, mailing address and telephone contact information of the permit applicant. Applications are accepted from only the owner of the restaurant or the owner's authorized agent, which authorization must be in writing and notarized. The name, mailing address and telephone contact information of the owner of the restaurant shall be provided if the owner is not the permit applicant.
  - (3). A diagram and description of the outdoor area which is requested to be designed as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement to tables, chairs and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of the other outdoor dining areas not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways.
  - (4). The diagram shall be accurate and to scale, but need not be prepared by a licensed design professional. A copy of the approved diagram shall be attached to the permit.
  - (5). Days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area of the restaurant.
- (d). Restaurants that receive a permit to allow dogs in a designated outdoor area pursuant to this subsection shall require that:
- (1). Employees must wash their hands promptly after touching, petting or otherwise handling any dog.
  - (2). Employees are prohibited from touching, petting or otherwise handling any dog while serving food or beverages or handling tableware or before entering other parts of the restaurant.
  - (3). Patrons in a designated outdoor area be advised by appropriate signage, at conspicuous locations, that they should wash their hands before eating and waterless hand sanitizer be provided at all tables in the designated outdoor area.
  - (4). Patrons keep their dogs under control and on a leash at all times.
  - (5). Employees and patrons shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products or any other

items involved with food service operations.

- (6). Employees and patrons shall not allow any part of a dog to be on chairs, tables or other furnishings.
- (7). Employees shall clean and sanitize all table and chair surfaces with an approved product between seating of patrons.
- (8). Employees shall remove all dropped food and spilled drink from the floor or ground as soon as possible but in no event less frequently than between seating of patrons at the nearest table.
- (9). Employees and patrons shall remove all dog waste immediately and the floor or ground shall immediately be cleaned and sanitized with an approved product. Employees shall keep a kit with the appropriate materials for this purpose near the designated outdoor area.
- (10). Employees and patrons shall not permit dogs to be in, or travel through, indoor or non-designated outdoor portions of the restaurant.
- (11). At all times while the designated outdoor portion of the restaurant is available to patrons and their dogs, at least one sign be posted in a conspicuous and public location near the entrance to the designated outdoor portion of the restaurant, notifying patrons that the designated outdoor portion of the restaurant is currently available to patrons accompanied by their dog or dogs. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height and printed in easily legible typeface of not less than twenty point font size.
- (12). At least one sign reminding patrons of the applicable rules, including those contained in this part, and any permit conditions, which may be imposed by the Urban Design Division, be posted in a conspicuous location within the designated outdoor portion of the restaurant. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height and printed in easily legible typeface.
- (13). At least one sign reminding employees of the applicable rules, including those contained in this part, and any permit conditions, which may be imposed by the Urban Design Division, be posted in a conspicuous location frequented by employees within the restaurant. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height and printed in easily legible typeface.
- (14). Ingress and egress to the designated outdoor area shall not require entrance into or passage through any indoor area or non-designated outdoor portions of the restaurant.
- (15). The restaurant and designated outdoor area shall comply with all permit conditions and the approved diagram.

- (16). Employees and patrons shall not allow any dog to be in the designated outdoor areas of the restaurant if the restaurant is in violation of the requirements of this section.
- (17). Permits are to be conspicuously displayed in the designated outdoor area.
- (e). A permit issued pursuant to this Subsection shall expire automatically upon the sale of the restaurant and cannot be transferred to a subsequent owner. The subsequent owner may apply for a permit pursuant to this Subsection if the subsequent owner wishes to continue to allow patrons' dogs in a designated outdoor area of the restaurant. All doggie dining permits shall expire on December 31 of each year and an application for renewal must be submitted prior to that date.
- (f). Complaints and Reporting shall be made in accordance with the provisions of City of Punta Gorda Code of Ordinances, Chapter 9A Code Enforcement, penalty may include suspension or revocation of outdoor dining permit.

**Section 8.28** **RESERVED**

**Section 8.29** **Outdoor Sales Prohibited**

- (a). 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. Permitted outdoor sales include:
  - (1). Door-to-door selling as codified in Chapter 15, Section 15.45
  - (2). Businesses with permanently constructed buildings that display some merchandise outdoors as codified in Chapter 26, Article 3
  - (3). Merchandise stands for outdoor sale of goods by retail businesses, permitted in various zoning districts as codified in Chapter 26, Article 3
  - (4). Mobile food dispensing vehicles, as codified in Chapter 26, Section 4.40, and permitted in various zoning districts
  - (5). Special events as codified in Chapter 26, Article 13
  - (6). Outdoor dining areas, as codified in Chapter 26, Article 19, and permitted in various zoning districts
- (b). Violations of any provision of this Section shall be issued a citation in accordance with Article 9A Code Enforcement, Section 9A-10 Citations. Each time a violation occurs or continues shall be a separate offense.