

# ARTICLE 18

## VIOLATIONS, PENALTIES, AND ENFORCEMENT

### **Section 18.1. Responsibility for Enforcement**

The Zoning Official or his designee shall have the authority and the duty to ensure that all buildings and structures and the use of all land complies with the provisions of this Ordinance. In acting to enforce this Ordinance, the Zoning Official or his designee, or authorized agent thereof, shall act in the name of the City of Punta Gorda. The Zoning Official or his designee shall have all necessary authority on behalf of the City Council to administer and enforce this Ordinance.

### **Section 18.2. Violations**

Unless otherwise expressly allowed by this Ordinance or state law, any violation of this Ordinance, including but not limited to the following, shall be subject to the remedies and penalties provided for in this Ordinance.

- (a) To use land or buildings in any way not consistent with the requirements of this Ordinance.
- (b) To erect a building or other structure in any way not consistent with the requirements of this Ordinance.
- (c) To engage in the development or subdivision of land in any way not consistent with the requirements of this Ordinance.
- (d) To transfer title to any lots or parts of a development unless the land development plan or subdivision has received all approvals required and an approved plan or plat, if required, has been filed in the appropriate office.
- (e) To submit for recording, any subdivision plat, land division or other land development plan that has not been approved in accordance with the requirements of this Ordinance.
- (f) To install or use a sign in any way not consistent with the requirements of this Ordinance.
- (g) To engage in the use of a building or land, the use or installation of a sign, the subdivision or development of land or any other activity requiring one or more permits or approvals under this Ordinance without obtaining all such required permits or approvals.
- (h) To engage in the use of a building or land, the use or installation of a sign, the subdivision or development of land or any other activity requiring one or more

permits under this Ordinance in any way inconsistent with any such permit or approval or any conditions imposed thereon.

- (i) To violate the terms of any permit or approval granted under this Ordinance or any condition imposed on such permit or approval.
- (j) To obscure, obstruct or destroy any notice required to be posted or otherwise given under this Ordinance.
- (k) To violate any lawful order issued by any person or entity under this Ordinance.
- (l) To continue any violation as defined above, with each day of continued violation to be considered a separate violation for purposes of computing cumulative civil or criminal penalties.

### **Section 18.3. Penalties and Remedies**

In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this Ordinance, or any lands or buildings are used in violation of this Ordinance, an action for injunction, mandamus, or other appropriate action or proceeding to prevent such violation may be instituted by the Zoning Official or designee.

- (a) Primary Remedy. The primary vehicle for enforcement of the Regulating Ordinance will be vested within the Code Enforcement Board of the City of Punta Gorda, or a Special Master appointed by City Council.
- (b) Secondary Remedy. The Zoning Official or designee may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this Ordinance. It is not a defense to the Zoning Official or his designee's application for equitable relief that there are other remedies provided under general law or this Ordinance.
- (c) Injunction. Enforcement of the provisions of this Ordinance may also be achieved by injunction. When a violation occurs, the Zoning Official or his designee may, either before or after the institution of other authorized action, apply to the Circuit Court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.
- (d) Order of Abatement. In addition to an injunction, the Zoning Official or his designee may apply for an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:
  - (1) Buildings or other structures on the property be closed, demolished, or removed
  - (2) Fixtures, furniture or other moveable property be moved or removed entirely.
  - (3) Improvements, alterations, modifications or repairs to be made.

(4) Any other action be taken that is necessary to bring the property into compliance with this Ordinance.

(e) Criminal. Any person, firm or corporation convicted of a criminal act violating the provisions of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed \$500 and/or imprisoned for a period not to exceed 30 days. Each day of violation shall be considered a separate offense, provided that the violation of this Ordinance is not corrected within 30 days after notice of said violation is given.

(f) Stop Work/Use Order Issuance and Revocation of Permits. Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired or any lands or buildings are being used in substantial violation of any applicable provision of this Ordinance, the Zoning Official or his designee may order the specific use or part of the work that is in violation, or would be when the work is completed, to be immediately stopped. The stop work/use order shall be in writing, directed to the person performing or in charge of the use or doing the work, and shall state the specific use or work to be stopped, the specific reasons for cessation and the actions necessary to lawfully resume a use or work. The Zoning Official or his designee may revoke any permit by written notification to the permit holder when violations of this Ordinance have occurred. Permits may be revoked when false statements or misrepresentations were made in securing the permit, a use or work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this Ordinance, or a permit has been mistakenly issued in violation of this Ordinance. Failure to comply with a Stop Work/Use Order is punishable as provided in Section 1-6, Chapter 9A, and Section 18.3, Chapter 26 of the City Code of Ordinances.

#### **Section 18.4. Liability**

The owner, tenant or occupant of any land or structure, or part thereof, or any architect, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this Ordinance shall be held jointly and severally responsible for the violation and be subject to the penalties and remedies provided herein.

#### **Section 18.5. Remedies and Enforcement Powers**

The City shall have the following remedies and enforcement powers:

- (a) Revoke Permits. Any permit or other form of authorization required under this Ordinance may be revoked by Zoning Official or his designee when Zoning Official or his designee determines:
- a. That there is departure from the plans, specifications, or conditions as required under terms of the permit.
  - b. That the development permit was procured by false representation or was

issued by mistake.

- (b) Stop Work/Use. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired or lands or buildings used in violation of this Ordinance, the Zoning Official or his designee may order the work or use to be immediately stopped. The stop-work/use order shall be in writing and directed to the person performing or in charge of the use or doing the work. The stop-work/use order shall state the specific use or work to be stopped, the specific reasons for the stoppage, and the conditions under which the use or work may be resumed. Failure to comply with a stop work/use order is punishable as provided in Section 1-6, Chapter 9A, and Section 18.3, Chapter 26 of the City Code of Ordinances.
- (c) Injunctive Relief. The City may seek an injunction or other equitable relief in court to stop any violation of this Ordinance or of a permit, certificate or other form of authorization granted hereunder.
- (d) Abatement. The City may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.
- (e) Penalties. The City may seek such other penalties as are provided by law.
- (f) Other Remedies and Powers. The City shall have such other remedies and enforcement powers as are and as may be from time to time provided by Florida law for the violation of zoning, subdivision, sign or related provisions.

**Section 18.6. Continuation of Previous Enforcement Actions**

Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid ordinances and laws.

**Section 18.7. Remedies Cumulative**

The remedies and enforcement powers established in this Ordinance shall be cumulative, and the City may exercise them in any order.

**Section 18.8. Persons Subject to Penalties**

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to the above penalties.