Article 8

Standards of General Applicability

Section 8.1. ~~Demolition and Relocation of~~ 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: *[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, 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.

[relocated from 3.14(b)]

(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.

[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 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, 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.

[relocated from 3.14(k)]

(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.

[relocated from 3.14(g)]

(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.

[relocated from 3.14(f)]

(h). 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). ~~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 ~~landmark building or structure within a historic district~~ may not be denied.

(2). However, the effective date of such a certificate may be delayed for a period of up to 18 months from the date of approval.

(3). The maximum period of delay authorized by this section ~~shall~~ may be reduced by the City Council upon appeal by applicant of the HPAB decision.

(4). City Council ~~review and recommendation of the HPAB where it~~must find~~s~~ 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.~~

~~(5). Non-designated Buildings and Structures. An application for a Demolition Permit for non-designated structures [structures which are 50 years of age or older and/or 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 8.2. ~~Development Agreements~~RESERVED

~~The City Council, in its sole and exclusive discretion, may enter into development agreements with the legal and equitable owners of real property within the City limits as~~

~~is provided in Chapter 163, Florida Statutes, and as is further set forth under the terms of this section. The entry into a development agreement by the said City shall in no way whatsoever limit or modify any legislative power by the said City to adopt ordinances, resolutions, regulations or to make executive, administrative or legislative~~

~~decisions of any kind which it had the power to make prior to the entry of such development agreement, except to the degree that the development agreement, by its express terms and not by implication, gives vested rights to the said property owner as to certain development permissions, requires improvements, and similar matters. No development agreement shall, by its express terms or by implication, limit the right of the City Council to adopt ordinances, regulations or to adopt policies that are of general application or specific as to the property subject to the development agreement in the City, except as is expressly provided by Chapter 163, Florida Statutes.~~

~~(a) A property owner desiring to enter into a development agreement with the City shall make a written request for such development agreement to the City Manager. Such written request shall identify the lands which are desired to be subject to the development agreement and shall identify all legal and equitable owners having any interest in such property, and such ownership interests shall be certified by a title company or an attorney at law licensed to practice in the State. In the event that any partnerships, corporations, joint ventures or other entities, other than individuals, own a legal or equitable interest in such property, all principals and other persons with interest in such partnerships, corporations, or joint ventures shall be revealed.~~

~~(b) Upon receipt of such a request, the City Manager shall place the matter on the agenda of the City Council and the City Council shall, in its discretion, determine whether or not it desires the City Manager to pursue negotiations with the property owner relative to the entry into a development agreement.~~

~~(c) Upon the City Council determining that it desires to proceed with further negotiations relative to a development agreement, the property owner shall promptly submit a development proposal for the subject property to include the following information:~~

~~(1) Legal description of the lands, to include identification of lands or out-parcels to be exempt from the agreement.~~

~~(2) The persons, firms or corporations having a legal or equitable interest in the land.~~

~~(3) The desired duration of the development agreement, but not exceeding five years.~~

~~(4) The development uses desired to be permitted on the land, including population densities and building intensities and heights.~~

~~(5) A description of all existing and proposed public facilities that will serve the land.~~

(6) Identification of zoning district modifications or land use plan district amendments that will be required if the proposed development proposal were to be approved.

(7) The zoning and present land use categories of all abutting property. The complete names and addresses of all property owners abutting or lying within 200 feet of the subject property as currently listed in the County records 1 week prior to the agreement application.

(8) A certified property boundary survey prepared by a certified land surveyor no more than six months prior to the property owner's written request for the development agreement.

(9) All environmentally sensitive lands, jurisdictional wetlands and land subject to the jurisdiction and regulations of the Southwest Florida Water Management District shall be shown on a survey of the property.

(10) All existing and proposed utilities and the manner in which existing utilities will be extended to the site and/or expanded for the use of the development, including water, sewer, electricity, cable TV, and other utilities.

(11) A master drainage plan for the development indicating thereon the existing drainage features and land topography along with and superimposed thereon the proposed drainage features, indicating clearly the means by which the final developed land will collect, regulate and conduct the drainage runoff from the lands developed and tributary thereto.

(12) The location, type, size and height of fencing, earth berms, retaining wall or screen planting to buffer abutting properties or as is otherwise required by City regulations.

(13) A grading plan, and included therewith the elevation requirements of the National Flood Insurance Program as applicable to the City.

(14) A landscape plan and existing tree survey.

(15) A list of all Federal, State and local permit requirements.

(16) Private or public parklands required or proposed for parkland impact fee purposes.

(17) Any further information that the City Manager may require because of the particular nature or location of the development.

(d) The submission of a request for consideration of a development agreement, the City Council's willingness to pursue discussions, the resultant negotiations regarding a development agreement, the payment of any application fees for the submission of any applications, engineering plans, surveys and any other

expenditures or efforts in prosecution of the development agreement provided for herein by a property owner shall not vest any rights whatsoever in any zoning or land use designation in such property owner, nor shall it in any manner whatsoever limit the City Council from undertaking any zoning or land use plan amendments that it would be otherwise legally entitled to undertake.

(e) The City Manager or designee shall review the development proposal of the property owner and shall meet and negotiate with the property owner regarding the appropriate development of the property and the terms and conditions on which said property should be developed as the City Manager shall deem to be appropriate and necessary for the protection of the public interest. At such time as the property owner and the City Manager have reached tentative agreement as to the terms and conditions of a development agreement or the City Manager deems that no further negotiations would be useful because of the unlikely possibility of reaching a concurrence in the terms and conditions of a development agreement, the City Manager shall report the status of such negotiations to the City Council. Such tentative agreement shall not give rise to any development rights or equitable or legally vest any development rights in the property owner. In the event that the City Manager and the property owner have negotiated the terms of a mutually acceptable development agreement, the essential terms of the development agreement shall be presented in an outline form to the City Council. The City Council shall review the same and shall, if it determines to proceed further with completion of the development agreement by no less than three members of the City Council, direct the attorney to reduce the said development terms to contractual form for further consideration by the City Council. This direction shall in no manner whatsoever obligate the City Council to ultimately approve a development agreement or to approve any of the matters outlined to it by the City Manager as to any specific term or condition. In the event that the City Manager and the property owner have not negotiated a mutually satisfactory development agreement, the City Manager shall so notify the City Council that the development agreement process as to the particular land should be concluded. The City Council may direct that rather than concluding negotiations, negotiations may continue by vote of the Council. Any further development agreement application on the same property may be submitted no sooner than 180 calendar days from the date of the City Manager's notification to the City Council that the previous development agreement application was terminated for failure to reach a mutually satisfactory agreement or the City Council has concluded consideration of the development agreement, whichever is later.

(f) At such time as the City Attorney has reduced the terms of the proposed development agreement to written contractual form, the City Manager shall transmit such development agreement to the City Council with his written recommendation regarding adoption of the development agreement. The City Council shall then conduct not less than two public hearings on the question of entering into the said development agreement. Said public hearing shall be advertised in a newspaper of general circulation in the County, and such notice shall be advertised approximately 30 days before each public hearing. Notice of intent to consider said development agreement shall also be mailed to all property owners abutting the subject land or lying within 200 feet of the subject land, not

less than 15 days prior to the first hearing. The City Clerk's Office shall furnish an updated listing of the complete names and addresses of the affected owners. The day, time and place at which the second public hearing shall take place shall be announced at the first public hearing. The said notice shall specify the location of the land subject to the development agreement, the development uses proposed on the property, the proposed population densities and building heights, and shall specify where a copy of the proposed agreement can be obtained. Prior to the first public hearing, the proposed development agreement shall have been reviewed by the Planning Commission [PC] and its recommendation shall have been provided to the City Council. In the event that the PC has failed to provide a recommendation to the City Council within 45 days from the date that such development agreement has been submitted to it for action, this requirement may be waived by the City Council. At public hearings, the City Council shall accept any public comment on the terms of the development agreement. At the meeting at which the second public hearing is held, or at any subsequent meeting thereafter, the City Council may, by vote of not less than three members of the City Council, approve the form and execution of a development agreement. Any development agreement approved under the provisions of this subsection shall contain not less than the following requirements:

(1) A legal description of the land subject to the agreement and the identification of all persons having legal or equitable ownership therein.

(2) The duration of the development agreement, which duration shall not exceed 5 years but which may be extended by mutual consent of the City and the property owner, through Council action.

(3) The development uses permitted on the land, including population densities, building intensities and building height.

(4) A conceptual site plan containing such information as may be required by the City Manager to properly consider the development proposal. In the event that a site plan is required in the zoning district designation in which the property will ultimately be developed, all the requirements of that site plan process and submittals shall be met prior to development.

(5) A description of the public facilities that will service the development, including designation of the entity or agency that shall be providing such facilities. Additionally, if new facilities are needed to serve the project, the date by which such facilities will be constructed and a schedule to assure that public facilities shall be available concurrent with the impacts of the development will be provided. The development agreement may provide for a letter of credit to be deposited with the City to secure the construction of any new facilities that are required to be constructed. Alternatively, such construction of facilities may be a condition precedent to the issuance of any building permits or other development permissions. In the event that the new public facilities are in place and operating at the time development permits are requested, no such letter of credit shall be necessary unless such facilities are not adequate for the project.

(6) A description of any reservation or dedication of land for public purposes. The development agreement shall provide specifically how the land dedication ordinance obligation for the project, if any, is to be met. In the event that land is to be conveyed to the City in discharge of the land dedication ordinance obligation, the development agreement will provide that such conveyance will be by warranty deed and will be accompanied by a title insurance policy [at the expense of the property owner] in an amount not less than the fair market value of the land.

(7) A description of all local development permits approved or needed to be approved for the development of the land, specifically to include at least the following: any required zoning amendments, any required land use plan amendments, any required submissions to the Southwest Florida Regional Planning Council, or the Department of Community Affairs, any required permissions of the State Department of Environmental Protection, the U.S. Army Corps of Engineers, the Southwest Florida Water Management District, the U.S. Environmental Protection Agency, and any other governmental permissions that are required for the project. The development agreement shall specifically provide that said development permissions will be obtained at the sole cost of the property owner and that, in the event that any development permissions are not received, that no further development of the property shall be allowed until such time as the City Council has reviewed the matter and determined whether or not to terminate the development agreement or to modify it in a manner consistent with the public interest. Under these conditions, action in reliance on the development agreement or expenditures in pursuance of its terms or any rights accruing to the property owner thereunder shall not vest any development rights in the property owner, nor shall it constitute partial performance entitling the property owner to a continuation of the development agreement.

(8) A specific finding in the development agreement that the development permitted or proposed is consistent with the City's Comprehensive Plan and the Land Development Regulations of the City or that, if amendments are necessary to the zoning district designations or land use plan designations on the subject property, that such development agreement is contingent upon those amendments being made and approved by the appropriate governmental agencies.

(9) The City Council may provide for any conditions, terms, restrictions or other requirements determined to be necessary for the public health, safety or welfare of its citizens and such conditions, terms or restrictions may be more onerous or demanding than those otherwise specifically required by the land development standards then existing in the City and may provide for offsite improvements, screening, buffering, setbacks, building height restrictions, land coverage restrictions and similar types of matters that would not otherwise be required of the development under the existing City ordinances and regulations.

(10) A statement indicating that failure of the development agreement to address a particular permit, condition, term or restriction shall not relieve the property owner of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions and that any matter or thing required to be done under existing ordinances of the City shall not be otherwise amended, modified or waived unless such modification, amendment or waiver is expressly provided for in the said development agreement, with specific reference to the Code provision so waived, modified or amended.

(11) At the City Council's discretion, the development agreement may provide that the entire development, or any phase thereof, be commenced or be completed within any specific period of time, and may provide for penalties in the nature of monetary penalties, the denial of future building permits, the termination of the development agreement or the withholding of Certificates of Occupancy for the failure of the property owner to comply with any such requirement.

(g) The ordinances and regulations of the City governing the development of the land at the time of the execution of any development agreement provided for hereunder shall continue to govern the development of the land subject to the development agreement for the duration of the development agreement. At the termination of the duration of the development agreement, all then existing Codes shall become applicable to the project regardless of the terms of the development agreement and the said development agreement shall be modified accordingly. The application of such laws and policies governing the development of the land shall not include any fee structure, including any impact fees, then in existence or thereafter imposed. The City may apply ordinances and policies adopted subsequently to the execution of the development agreement to the subject property only if the City has held a public hearing and determined that such new ordinances and policies are:

(1) Not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities or densities as allowed under the terms of the development agreement;

(2) Essential to the public health, safety and welfare and expressly state that they shall apply to a development that is subject to a development agreement;

(3) Specifically anticipated and provided for in the agreement; and the City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of the approval of the development agreement or the development agreement is based on substantially inaccurate information supplied by the developer. All development agreements shall specifically provide that subsequently adopted ordinances and policies of general application in the City, specifically including impact fees, shall be applicable to the land subject to the development agreement and that such modifications are specifically anticipated in the development agreement.

(h) The Urban Design Division shall review all lands within the City subject to a development agreement not less than once every 12 calendar months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. The City Manager shall report his findings to the City Council. In the event that the City finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the agreement maybe revoked or modified by the City upon 30 days' notice to the property owner as shown on the records of the Property Appraiser for the County. Such termination or amendment shall be accomplished only after a public hearing and notice as is herein required for the adoption of a development agreement. Amendment or cancellation of the development agreement by mutual consent of the City and the property owner may be accomplished following the notice requirements required for initial adoption of the development agreement as is above set forth.

(i) Not later than 14 days after the execution of a development agreement, the City shall record the said agreement with the Clerk of the Circuit Court in the County, and a copy of the recorded development agreement shall be submitted to the State land planning agency within 14 days after the agreement is recorded. The burdens of the development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

(j) In the event that State and Federal laws are enacted after the execution of a development agreement which are applicable to and preclude the parties' compliance with the terms of the development agreement, such agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws, such modification or revocation to take place only after the notice provisions provided for the adoption of a development agreement have been complied with. Such persons as are defined by State law shall have standing to enforce the development agreement.

(k) All development agreements shall be executed by all persons having legal or equitable title in the property, as shown by an ownership and encumbrance report or other title document accessible to the City Attorney.

{Ord. No. 1514-07, <sec> 1, 11/07/07}

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

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, 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.~~

~~*{Ord. No. 1422-05, <sec> 1, 10/05/05; Ord. No. 1514-07, <sec> 2, 11/07/07; Ord. No. 1913-19, <sec> 1,*~~

Section 8.4. Exterior Lighting Standards

The purpose of this Section is to provide standards for exterior lighting to include site (pole mounted) and building-mounted lighting and ~~direction~~ in controlling light spillage and glare from non-residential and multi-family development so as not to adversely affect motorists, pedestrians, and land uses of adjacent properties. Exterior lighting is required for all non-residential, and mixed-use developments as well as any multi-family development requiring parking lots. ~~Lighting intensities should be controlled to assure that excessive light spillage and glare are not directed at adjacent properties, neighboring areas, and motorists.~~

(a). **Type of Fixture**.

(1). Exterior lighting for non-residential, mixed-use and multi-family development shall be integrated with the architectural character of the building consistent with the provisions of Article 7 Architectural Standards, which may vary by Zoning District, through style and material for the entire development site.

(2). ~~Downcast or~~ Full cutoff type lighting fixtures are preferred to enhance site safety, reduce glare, and light spillage onto adjacent residential dwellings and/or natural areas ~~should be generally used to illuminate pedestrian or traffic circulation corridors.~~

(3). Up cast or non-full cutoff type lighting fixtures may be permitted ~~are generally suited for pedestrian applications such as for pedestrian circulation or transitional areas. Determination of light fixtures and level of illumination~~ to achieve a certain function or desired effect but should be placed as to ~~also~~ reduce or eliminate the hazardous aspects and nuisance of glare and light spill over. ~~All exterior lighting for non-residential and multi-family development, with the exception of street lighting, that is used in and around buildings, recreation areas, parking lots, and signs, shall be designed to protect against the spill-over of light to adjacent properties.~~

(b). **Photometric plan.** Photometric Plan is required for all exterior lighting. 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. ~~shall range between zero foot candles and one foot candles when lighting is located next to residential.~~

(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.; ~~and located at least 10 feet from property lines defining rear and side yards or required perimeter landscaped areas required by~~

~~this Code.~~

(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). ~~All exterior lighting for non-residential and multi-family development shall be designed and located such that the~~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. ~~The average intensity illumination for outdoor lighting shall not exceed 6-foot candles in intensity as measured at grade.~~

(2). Fixtures should be located~~placed~~ 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). ~~The q~~Quantity of fixtures to be provided shall be based upon the desired level of uniform illumination as established ~~by the current standards of the Illuminating Engineering Society. Fixture locations should be chosen to minimize the hazards of glare.~~

(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. ~~not considered in this Article~~. ~~Lighting conditions for such uses shall be approved by the City Engineer in accordance with approved standards and specifications.~~

(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.

~~*{Ord. No. 1514-07, <sec> 3, 11/07/07; Ord. No. 1848-16, <sec> 1, 05-04-2016}*~~

Section 8.5. Fences, Privacy Walls, and Hedges.

(a). **Definitions. [For specific definitions see Fence, Privacy Walls and Hedges section in Section 19.7]**

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, p~~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~~ 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: ~~or driveway.~~

a. ~~Hedges and l~~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 l~~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 l~~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. ~~Hedges~~ 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. ~~Hedges~~ Landcaping 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~~ landscaping in the rear yard may be of any height.

h. For residential properties adjacent to Burnt Store Road, ~~a hedge~~ 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. ~~Hedges and l~~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. 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. ~~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:

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, ~~such as but not limited to tennis courts, pickleball courts, basketball courts and racquet ball courts~~ upon ~~City Council~~ 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. ~~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 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 ~~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:

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) 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 conform to the Landscape Buffer requirements of Section 12.4 (f). (2). a. ~~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) ~~(10)~~ **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) ~~(11)~~ **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 as approved by the City Council in accordance with the ~~following~~ procedures and standards of Section 16.8 Application for Special Exception. ~~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 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 CommissionPlanning and Zoning Board 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:

(1) The use will not be detrimental to surrounding properties.

(2) The use is suitable in its proposed location.

(3) The use will not operate to the detriment of the transportation system upon consideration of access control, traffic generation and road capacities.

(4) The use will not result in any economic burdens on the public or demands on utilities, community facilities and public services.

(5) The use complies with the Comprehensive Plan for the City.

(6) The use will not be detrimental to the safety, health, morals or general welfare of the public.

(b) No marina shall be approved for live-aboard use unless it provides:

(1) An adequate, safe and potable supply of water shall be provided in compliance with Chapter 17-22, Water Supplies, Florida Administrative Code. Whenever a municipal or public water supply is available to the marina, such water supply shall be used. At least one service connection shall be provided for each slip, consisting of at least a water hydrant and the necessary appurtenances, protected against the hazards of backflow and siphonage.

(2) Not less than the following toilet and bathing facilities contained in central units for men and women shall be provided in addition to those required for employees. For women: one toilet seat for each 15 women or fraction thereof; one lavatory for each 20 women or fraction thereof; one shower bath for each twenty 20 women or fraction thereof. For men: One toilet seat for each 20 men or fraction thereof; one urinal for each 25 men or fraction thereof; one lavatory for each 20 men or fraction thereof; one shower bath for each 20 men or fraction thereof. All must be maintained in a clean and sanitary condition at all times. Sinks, urinals and toilets, as well as floors, must be washed with a suitable cleaning agent each day. The number of men and women shall be estimated on the basis of 3 persons to each slip, the total population to be considered equally divided as to men and women.

(3) An adequate and safe method of sewage collection, treatment and disposal shall be provided and shall be in compliance with Chapter 17-6, Florida Administrative Code, Sewage Works, or Chapter 10D-6, Florida Administrative Code, Individual Sewage Disposal, and with all other applicable State and Federal regulations. Whenever a municipal or public sewer system is available to the marina, such system shall be used. Equipment shall be provided for the pumping of sewage holding tanks and for the disposal of the effluent therefrom. No sewage shall be discharged

at any time into the water. Marinas will be required to submit a comprehensive plan for insuring these discharges will not occur. It shall be mandatory for live-aboards to pump out at least once each week and the marina shall keep written records of such action.

(4) Storage, collection and disposal of garbage and refuse shall be so managed as to prevent the creation of nuisances, odors, rodent harborages, insect breeding areas, accident hazards or air pollution. All garbage shall be stored in tightly covered impervious containers provided in sufficient number to prevent garbage from overflowing. Individual containers shall be kept in racks or holders so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them. Plastic bags may be used provided they meet the requirements above described and are used in a manner above described. All garbage shall be collected at least twice weekly and transported in covered vehicles or covered containers. Refuse shall be stored, transported and disposed of in accordance with the provisions of Chapter 17-7, Florida Administrative Code, and all applicable City regulations and ordinances.

(5) Live-aboard marinas shall be in the charge of and supervised by a competent manager at all times. Each marina shall be provided with quarters for the use of the marina manager.

(6) All patrons shall be required to register immediately upon docking. Registration records shall contain the name and street address of the owner or operator, and the name, if any, and registration number of the boat. A copy of the State license of the boat is to be examined by the marina manager. Such records shall be preserved and available upon request of the Urban Design Manager, County Property Appraiser, or any law enforcement officer.

(7) Except as hereinafter provided, the time limit for live-aboards in the City shall be six months measured cumulatively.

(c) Each marina owner or operator shall have posted in the marina and shall enforce rules providing for at least the following:

(1) Each occupant of the marina shall be encouraged to use the shore side sanitary facilities furnished and shall comply with all applicable rules and regulations which may affect or concern their conduct.

(2) All boats or vessels shall be capable of moving under their own power within 24 hours, except for vessels docked for active repairs.

(3) Before the 6 months' time limit expires, the marina manager shall give 24-hour written notice to the vessel owners requiring a testing of the vessels' ability to, under their own power, leave the marina. The marina manager, along with the Zoning Official or designated representative, shall witness and certify each vessel upon the completion of the testing procedure. Failure of the vessel's ability to leave the marina will cause the vessel to be

~~towed out of the marina, the cost to be paid by the owner, and such vessel will not be permitted to reenter the marina.~~

~~(4) The Zoning Official is charged with the responsibility of verifying compliance with live-aboard rules and regulations. As such, he or his authorized representative shall be authorized to enter approved marinas to inspect boats or vessels docked therein and/or to inspect records and facilities as required.~~

~~*(Ord. No. 1514-07, <sec> 5, 11/07/07)*~~

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 ~~City Council with consultation with Planning Commission and City Engineer~~.

Section 8.9 Model Dwelling ~~Homes, Apartment, and Condominiums~~

A model dwelling ~~home~~ 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 ~~homes and models of rental apartments and condominiums~~ 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 ~~homes, mobile homes or apartment offices~~ dwellings~~, however~~, shall not be used as a contractor's office, a general real estate office~~, or a~~ resale listing office, or any other ~~such~~ type of ~~office or business, unless such offices are located in zones permitting such operations~~ non-residential use.

(c). ~~Signage for model homes shall be limited to one, double-sided, 16-square foot ground sign with indirect lighting. The sign shall architecturally compliment the structure through the use of like material and identification of architectural elements. In addition, flags shall be limited to one American flag. In no event shall p~~ Parking or loading areas shall be provided in a manner that does not require~~s~~ 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.

~~{Ord. No. 1651-10, <sec> 1, 09/01/10; Ord. No. 1731-13, <sec> 1, 03/06/13}~~

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 ~~or tenant~~ 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). ~~The owner or tenant shall maintain all landscaped areas in a manner consistent with the requirements of this Ordinance~~. 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.

(Ord. 1791-14, <sec> 2, 08-13-2014; *Ord. 1876-17, <sec> 1, 6-07-2017*)

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

(1). 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.

(2). 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 to limited to, streets, roads, rights-of-way, schools, parks and playgrounds.

~~(Ord. No. 1796-14, <sec> 6, 10-01-2014)~~

Section 8.13 Reserved ~~Soil Conservation~~

~~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.~~

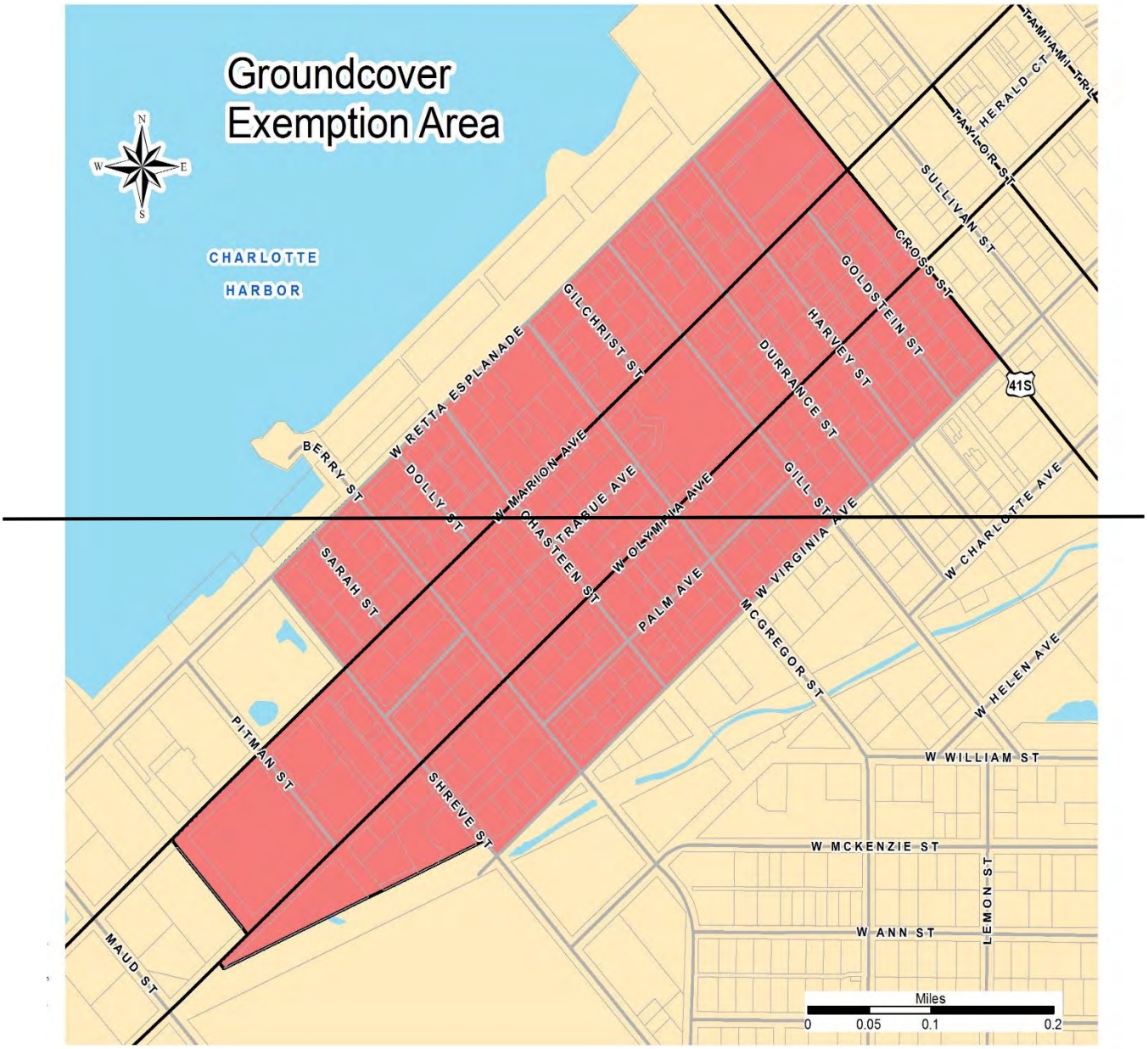
~~e. The landscape rock area must be completely covered so that no exposed soils are visible.~~

~~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.~~

~~(Ord. No. 1582-09, <sec> 1, 02/04/09; Ord. No. 1751-13, <sec> 1, 06/05/13; Ord. No. 1830-15, <sec> 1, 10/7/2015; Ord. No. 1873-17, <sec> 1, 06-07-2017)~~

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 ~~permissible~~ permitted with the following requirements:

(1). ~~Structures~~ Shall not be elevated greater than two feet above existing grade

(2). Shall not exceed ten percent of the open space yard requirement

(3). ~~and will~~ 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 ~~provided that~~ where the required yard is five (5) feet or greater.

(2). ~~less in width such projection shall not~~ Up to ~~exceed~~ 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). ~~Above ground~~ Backflow preventers shall be permitted in required yard under the following conditions: ~~are expressly prohibited in the established front yards of buildings~~

(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 ~~the established front~~ yard, it ~~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 a~~n opaque~~ 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). ~~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.~~

(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). ~~(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

(1). Not exceed six inches above grade

(2). Not exceed five feet in width

(3). Be setback at least three (3) feet from any property line.

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

(j). ~~(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.

(k). ~~(j).~~ Rain barrels are permitted under the following requirements:

(1). May encroach four feet in side or rear yards where the required ~~provided that where the~~ yard is greater than five (5) feet.

(2). In a required yard five (5) or less, such ~~projection~~ encroachment shall not exceed one-half the width of the yard.

(3). ~~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.

(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). ~~(l).~~ Nothing in this Code shall be so construed to prohibit landscaping or gardening on any lot.

(m). ~~(m).~~ 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.

~~*(Ord. No. 1424-05, <sec> 1-3, 10/05/05; Ord. No. 1514-07, <sec> 6, 11/07/07; Ord. No 1707-12, <sec> 1, 04/04/12; Ord. No. 1714-12, <sec> 2, 7/7/12; Ord. No. 1779-14, <sec> 2, 1/8/2014; Ord. No 1790-14, <sec> 2, 8/13/2014; Ord. No. 1837-16, <sec> 2, 03-02-2016; Ord. No. 1854-16, <sec> 1, 08-24-2016; Ord. No. 1959-2020, <sec> 1, 11-04-2020)*~~

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 S~~ubs~~ection 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 ~~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 listed on the Local Register of Historic Places ~~with a~~ (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 Zoning Official ~~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 8.17. 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. ~~Visibility at Street Intersections, Drives and Driveways~~

~~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 natural or navigable water~~, natural or artificial~~, no building or structure shall be located less than the greater of the distance required by the Zoning Regulating District or Overlay ~~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 m~~Modifications of the setbacks from man-made non-navigable body of water including but not limited to stormwater management ~~retention~~ 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 ~~landfile~~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). **Liveaboards.** See Section 8.6 for regulations for living aboard any watercraft.

Section 8.20. Yard DesignationRESERVED

[Note: The substance of this section has been relocated to Section 15.6 Zoning Official]

~~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 (TPG) zoning district provides slightly different standards for the orientation of buildings on lots; the TPG standards will apply within the TPG zoning district instead of Section 8.20.~~

Section 8.21 Reserved ~~Yard Sales~~

~~Yard sale for purposes of this Article shall be defined to mean and include all general sales open to the public conducted on residential premises in any district for the purpose of disposing of personal property, including but not limited to all sales entitled "garage", "lawn", "yard", "attic", "porch", and/or "patio" sale; but which in no way shall be construed to include "flea market" which is specifically excluded herefrom.~~

~~(a) A no charge four day permit shall be obtained at the Code Compliance Division. The maximum number of "permits" which may be issued to any person or location per calendar year is two. Yard sales are limited to four consecutive days.~~

~~(b) Only personal property may be offered for sale. Personal property for purposes of this Article is that which is owned, utilized, maintained and acquired during the course of living in and maintaining a residence by an individual or members of the household, and shall specifically exclude merchandise which was purchased for resale or obtained on consignment.~~

~~(c) Yard sale signage is permitted following the requirements of Section 11.3 Permitted Signs.~~

~~(d) Off-premises directional signs are prohibited in all districts.~~

~~*(Ord. No. 1640-10, <sec> 1, 6/2/10)*~~

Section 8.22 ~~Density,~~ Adult Congregate Living Facilities

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

(a). ~~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 not exceeding twice the number of dwelling units per acre permitted by the Zoning Regulating District or Overlay. ~~Kitchens and dining areas shall be centralized to accommodate all residents.~~

(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 ~~General Multi-family and~~ Traditional Punta Gorda ~~City Center~~ zoning district~~s~~ 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. ~~There shall be one space per room of lodging.~~

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.

~~*(Ord. No. 1514-07, <sec> 8, 11/07/07)*~~

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). ~~Definitions~~. Reserved

~~(1) Restaurant, also called a food service establishment is an establishment where food and drink are prepared, served and consumed, mostly within the principal building.~~

~~(2) Outdoor Dining Area is that portion of a public food service establishment which is predominantly or totally open on all sides with seats and/or tables located outdoors of the restaurant, coffee shop or other food service establishment. The area is considered predominantly open on all sides if than 50% of the combined surface area of the sides creates a physical barrier which obstructs the free flow of air. The portion of the outdoor dining area that allows dogs must be able to be accessed without passing through other outdoor dining areas or the enclosed building in which the restaurant operates.~~

~~(3) Division shall mean the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants.~~

~~(4) Department shall mean the Urban Design Division, Growth Management Department.~~

~~(5) Employee or employees shall include, but is not limited to, the owner or owners of the restaurant, or any person hired to work for the restaurant or food service establishment.~~

(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 tan 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.

~~(1). Complaints may be made in writing to the Growth Management Department, Code Compliance Division. The Growth Management Department shall accept, document and respond to all complaints and shall timely report to the Division all complaints and the responses to such complaints.~~

~~(2). The Growth Management Department shall provide the Division with a copy of all approved applications and permits issued.~~

~~(3). All applications, permits and other related materials shall contain the Division issued license number for the restaurant.~~

~~(g). It shall be unlawful to fail to comply with any of the requirements of this subsection. Each instance of a dog on the premises of a restaurant that does not have a valid permit authorizing dogs at the restaurant is a separate violation.~~

~~(h). Enforcement and Penalties.~~

~~(1). It shall be the responsibility of the Growth Management Department to enforce the provisions of this subsection within the City of Punta Gorda.~~

~~(2). A permit may be revoked by the Growth Management Department if, after notice and a reasonable time in which the grounds for revocation may be corrected as specified in the notice, the restaurant fails to comply with any condition of the permit, fails to comply with the approved diagram, fails to maintain any required State or local license or is found to be in violation of any provision of this Subsection. If the grounds for revocation is a failure to maintain any required state or local license, the revocation may take effect immediately upon giving notice of revocation to the permit holder.~~

~~(3). If a restaurant's permit for allowing dogs at the restaurant is revoked, no new permit may be approved for the restaurant until the expiration of 180 days following the date of revocation.~~

~~(4). Any restaurant that fails to comply with the requirements of this subsection~~

shall be guilty of violating this part of the City of Punta Gorda Zoning Regulations and shall be subject to any and all enforcement proceedings consistent with the City of Punta Gorda Zoning Regulations and general law. Each day a violation exists shall constitute a distinct and separate offense.

(Ord. No. 1625-10, <sec> 1, 01-06-10)

Section 8.28 Pedi-cabs and Horse Drawn Carriages RESERVED

(a) Definitions. For the purposes of this Section, the following words and terms used shall be given the meanings as set forth below:

(1) Applicant means any person who makes application to the City of Punta Gorda for a non-motorized vehicle for hire permit.

(2) Driver or operator means any individual operating a non-motorized vehicle for hire, either as an owner, agent, employee or otherwise.

(3) Horse Drawn Carriage means any hack or carriage which is drawn by a horse or mule for the transportation of passengers for hire or compensation.

(4) Non-motorized vehicle for hire means any pedi-cab or horse drawn carriage operated by a driver which provides seating accommodations for passengers for a fee.

(5) Pedi-cab means any vehicle which is propelled solely by human/bicycle power and which is used for transporting passengers.

(6) Permit means a permit authorizing the holder thereof to engage in the business of operating non-motorized vehicles for hire within the City limits.

(7) Permittee means the person issued a permit under the provisions of this Section.

(8) Permitted Route Area means a route or routes within the approved route overlay area that have been specifically reviewed and approved by City staff.

(9) Person means all persons, partnerships, firms, companies, corporations and any others whatsoever owning, controlling or having charge of a non-motorized vehicle for hire.

(10) Street means all rights-of-way, public streets, avenues, boulevards, alleys, lanes, highways, sidewalks, public parks, parking roads and other places laid out for the use of motorized and non-motorized vehicles.

(11) Zoning Official shall mean the Zoning Official of the City of Punta Gorda and his/her designee.

(b) Permit required.

(1) It is unlawful to operate any non-motorized vehicle for hire upon the public streets of the City of Punta Gorda without first having obtained a valid permit covering each such vehicle.

(2) Every non-motorized vehicle for hire operating within the City of Punta Gorda must have attached to the vehicle a currently valid permit issued by the City of Punta Gorda for said vehicle. Such permit shall be conspicuously displayed at the rear of the non-motorized vehicle for hire at all times. Permits are not transferrable between vehicles.

(c) Application for permit; approval, denial of application; permit fee.

(1) Any person desiring to obtain a permit to operate a non-motorized vehicle for hire in the City shall submit to the Zoning Official a written application on forms prescribed by the City together with a fee which shall be set by resolution of the City Council.

(2) Upon receipt and acceptance of a complete application for a permit, the Zoning Official shall forward copies of the application to the Development Review Committee (DRC) for review and approval. Each member of the DRC shall evaluate the application for public health, safety and welfare concerns as may pertain to his or her department for reasonable assurances that the requirements of this Section can be satisfied by the applicant. The DRC shall advise the Zoning Official of their action with respect to each application for permit.

(3) Prior to approval, the City Police Chief or his/her designee can recommend that the requested route for operation of the non-motorized vehicle for hire be modified if he or she finds it necessary due to public health, safety and welfare concerns.

(4) If the application does not meet the requirements for approval, the applicant shall be provided a written notification which shall include the reason for denial.

(5) Once the application is approved by the DRC, the Zoning Official shall issue a permit to the applicant. The permit shall be valid for one year from the date of issuance.

(d) Appeal.

(1) Any applicant aggrieved by any decision of the Development Review Committee may within 30 days after receipt of written notice of said decision, appeal in writing to the Zoning Official who shall schedule a hearing thereon at the next regularly scheduled City Council meeting. At the hearing before City Council, the applicant shall have the burden of

demonstrating why the decision should be reversed or modified. Based upon the evidence, testimony and argument present at said hearing, City Council may reverse or affirm, wholly or in part, or may modify the decision.

(e) Adherence to approved route plan required; amendments and modifications to route plan.

(1) The permittee and all agents and employees thereof must adhere to the routes, terms and conditions as specified in their approved permit. Any deviation from the routes, terms or conditions of the permit without the written consent of the City shall be a violation of this Article.

(2) The permittee may submit amendments to the applicant or route plan; however, all such amendments shall undergo the same review and approval process as required for the initial application.

(3) The City reserves the right to modify the routes approved in the permit whenever necessity dictates to ensure public health, safety and welfare are protected.

(f) Renewal of permits; lost, destroyed permits; permits non-transferable; replacements and substitutions; dormant permits.

(1) Permittees may seek renewal of their permits from year to year; provided that permittee is in full compliance with the provisions of this Article and such other ordinances, rules and regulations as shall be enacted or adopted from time to time by the City and applies for the renewal no later than 30 days prior to the expiration of the permit for which renewal is sought. Applications for renewal must be approved by the DRC prior to the renewal of the permit. Renewal of the permit shall be issued by the Zoning Official upon payment of the applicable permit fee.

(2) If a permit issued under this Section is lost or destroyed, the permittee may obtain a duplicate upon payment of a ten dollar ($10.00) service charge.

(3) Permits shall not be transferable; however, the permittee may make replacements and substitutions of the non-motorized vehicles for hire designated in the issued permit, if the total number of non-motorized vehicles for hire does not exceed the total number provided for in the permit issued to such permittees, and provided that the substituted non-motorized vehicle for hire are the same or similar make and model of the non-motorized vehicles for hire approved in the initial permit.

(4) No permit may be transferred to another person.

(g) Business Tax Receipt. All permittees shall be required to obtain and maintain a Local Business Tax Receipt pursuant to Chapter 12, Punta Gorda Code.

(h) Prohibitions. No permittee or agent or employee thereof shall:

(1) Operate or allow to be operated, a non-motorized vehicle for hire in an unsafe condition or without the equipment required by this Section.
(2) Leave any non-motorized vehicle for hire unattended upon any street or sidewalk.
(3) Store, park or leave any non-motorized vehicle for hire overnight on any street.
(4) Operate a non-motorized vehicle for hire in an area or at a time other than those approved in their permit.
(5) Operate a non-motorized vehicle for hire in such a way as to intentionally impede automobile traffic or create a hazardous situation.
(6) Park a non-motorized vehicle for in a manner so as to disrupt the flow of automobile traffic on public streets, roads and thoroughfares, or so as to impede the flow of pedestrian traffic.
(7) Operate a non-motorized vehicle for hire in violation of any traffic control device or application State traffic laws.
(8) Operate a non-motorized vehicle for hire upon the sidewalk portion of a public right-of-way unless specifically approved at DRC review.
(9) Solicit patronage in a loud or annoying tone of voice or by sign or in any manner annoy any person or obstruct the movement of any persons, or follow any person for the purpose of soliciting patronage.
(10) Sleep, loiter or permit others to sleep or loiter within the passenger compartment of any non-motorized vehicle for hire while on a public street.
(11) Sell, distribute or solicit sales of any products, including food or drink while on a public street.
(12) Operate or allow a non-motorized for vehicle for hire to be operated without a valid driver's license.
(13) Allow sound produced by a radio, tape player, CD player, DVD player or any other sound making device or instrument located within a non-motorized vehicle for hire to be operated such that sound is plainly audible at a distance of 25 feet or more from the vehicle.

(i) Passenger seating requirements.

(1) It is unlawful for any permittee to operate a non-motorized vehicle for hire while carrying a number of passengers that exceeds the number of authorized seats as stated on the permit.

(2) It is unlawful for a permittee to transport a child under four years of age or under 40 pounds, without State required child or seat restraints.

(j) Operating Zones. Permittees of non-motorized vehicles for hire may provide service only on the streets approved in its permit.

(1) The Police Chief or Zoning Official may, during special events or major events, further limit permitted areas on a temporary basis. Permittees shall be given reasonable written notice of such limits to its permit.

(2) Upon written and/or verbal notification by the City's Emergency Management Director of a hurricane or other major weather event, or the

issuance of a hurricane warning for Charlotte County by the National Weather Service, whichever occurs first, the permittee shall, within four hours of same, cease operations, remove all non-motorized vehicles for hire and animals from all public streets and areas, and secure all equipment and animals indoors.

(k) Non-motorized vehicle for hire equipment requirements. All non-motorized vehicles for hire shall be equipped as specified below. Permittees shall maintain all non-motorized vehicles for hire in a uniform appearance, including consistency with company name, color and logo on all equipment and shall also maintain all equipment in a clean condition for public use.

(1) The non-motorized vehicle for hire shall be equipped with side mounted rearview mirrors affixed to the right and left side of the non-motorized vehicle for hire so located as to reflect to the driver a view of the street for a distance of at least 200 feet to the rear.

(2) A slow moving vehicle triangle shall be affixed on the rear of the vehicle or marked with retro-reflective tape which outlines the rear of the non-motorized vehicle from edge to edge.

(3) The non-motorized vehicle for hire shall be equipped with a headlight projecting a beam of white light for a distance of 300 feet and a tail light mounted on the right and left, respectively, at the same level on the rear exterior of the passenger compartment. Tail lights shall be red in color and plainly visible from all distances within 500 feet of the rear of the non-motorized vehicle for hire. Said lights shall be used during all hours of operation of said vehicles.

(4) Every such vehicle shall be equipped with rear bumpers.

(5) All equipment installed on any non-motorized vehicle for hire shall be secured to prevent movement during transit or in the event of a collision or overturn.

(6) Each horse-drawn carriage must be equipped with a manure catcher or other type of fecal collection device. All manure/fecal matter must be disposed of properly in an agricultural area outside of the City.

(7) All non-motorized vehicles for hire shall be kept clean and sanitary throughout, shall be kept and maintained in sound operating condition, and shall be kept in such condition as to ensure safe operation.

(l) Passenger Loading/Unloading Areas; Parking.

(1) A non-motorized vehicle for hire may be parking in a regularly marked commercial loading zone while waiting for passengers. All applicable and/or posted commercial/passenger loading zone regulations shall

apply. The City Council may designate certain areas for passenger loading and unloading which shall be posted by the City Manager or his/her designee.

(2) Parking, stopping, or standing in any area that is posted and/or marked as safety zones for crosswalks, fire hydrants, taxicab stands and sidewalks is not permitted.

(m) Emergency Suspension.

(1) In the event of a violation of this Section which results in an emergency situation whereby the continued operation of permittee's non-motorized vehicle for hire on public streets endangers the health, welfare or safety of the public, the City may suspend such permit by the issuance of a Notice of Violation and Orders for Correction Action. Any such suspension may be made effective immediately and shall remain in force until further notice by the City.

(2) If the violation is corrected within the time specified in the Notice of Violation and Orders for Corrective Action, the permittee shall be notified that the permit suspension has been lifted. If the violation has not been corrected, the City shall enforce the violation pursuant to the provisions of Chapter 9A, Punta Gorda Code.

(n) Duties of Permittee.

The permittee shall notify the Zoning Official of the names and addresses of all drivers in its employ. All changes of residence of the permittee or any drivers shall be reported to the Zoning Official within ten days. Changes of location of the business shall be immediately reported to the Zoning Official.

(o) Enforcement other than violations resulting in emergency suspension governed by Section 13 hereof.

Any person who violates the provisions of this Section shall be guilty of a noncriminal infraction. Enforcement of the provisions of this Section shall be through means of citations issued for non-criminal infractions. Such citations may be issued by any Police Officer or Code Enforcement Officer of the City and shall be in such form as may be adopted for such use by the Police Chief. The citation given to any violator shall specify the violation and the civil penalty therefor and shall notify the violator:

(1) The civil penalty must be paid at the Office of the City Clerk no later than ten days after the date the citation is issued unless the violation is appealed

to the Code Enforcement Board, giving the address of the City's Clerk's office;

(2) Any appeal must be filed with the Code Enforcement Board Coordinator within ten days after the date the citation is issued;

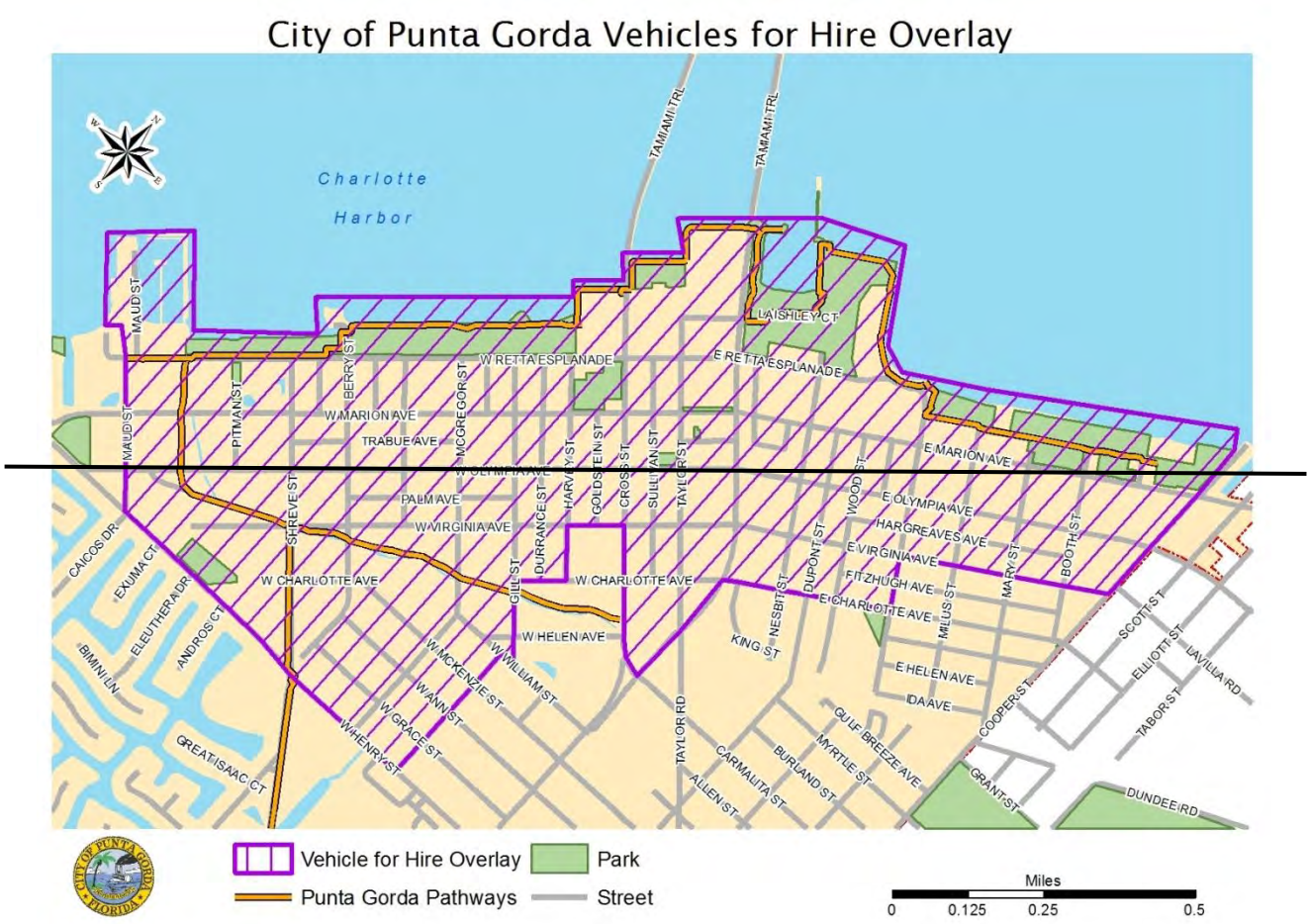
(3) If found guilty of the violation by the Code Enforcement Board on an appeal, the violator shall pay the assessed civil penalty as well as the cost of the appeal in the amount of $50.00.

If any civil penalty (and appeal cost, if applicable) is not paid within ten days after the date the citation is issued or within ten days after an order of the Code Enforcement Board finding the violator to be guilty if an appeal is timely filed, the permit issued pursuant to this Section shall be revoked until such civil penalty (and any appeal cost, if applicable) is paid.

(p) Penalties.

Any person who violates any provision of this Section shall be assessed a civil penalty as follows:

For the first offense.....$25.00
For the second offense.....$50.00
For the third offense.....$100.00



~~*(Ord. No. 1765-13, <sec> 1, 08-28-2013)*~~

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. 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 ~~and Penalties. Any person who violates~~ 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. ~~be assessed a civil penalty as follows:~~

~~(1) First offense.....Written warning~~
~~(2) Second offense.....$100.00~~
~~(3) Third offense .....$250.00~~
~~(4) Each subsequent offense.....$500.00~~

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