

Article 15

Review Authorities

Section 15.1. City Council

The body established under and by the authority of the laws of the State of Florida for the enactment of ordinances and the enforcement thereof and having the ultimate authority for amendment or repeal of any provision of this code including the following powers and duties.

(a) **Powers and Duties.**

- (1) Review and take final action on applications for amendments to the text of this Ordinance.
- (2) Review and take final action on applications for Comprehensive Plan amendments.
- (3) Review and take final action on amendments to the Zoning Map including Planned Developments.
- (4) ~~(3)~~ Responsible for taking final action on Minor Subdivision Final Plats.
- (5) ~~(4)~~ Responsible for taking final action on Major Subdivision Preliminary Plats.
- (6) ~~(5)~~ Responsible for taking final action on Major Subdivision Final Plats.
- (7) Responsible for taking final action on Appeals of Administrative Decisions that have been appealed from the Planning and Zoning Board or the Historic Preservation Advisory Board in accordance with Section 16.2.
- (8) ~~(6)~~ Responsible for taking final action on Certificates of Appropriateness that have been appealed from the Zoning Official in accordance with Section 16.3.
- (9) ~~(7)~~ Responsible for taking final action on Special Exceptions that have been appealed from the Planning and Zoning Board in accordance with Section 16.8.
- (10) ~~(8)~~ Responsible for taking final action on Variances that have been appealed from the Planning and Zoning Board in accordance with Section 16.10.
- (11). Responsible for taking final action on Development Mitigation agreements for Public Parking or Public Day Docks

- (b) **Appeal of Council Decisions.** Any person or persons jointly or severally aggrieved by any decision of the City Council may apply to the circuit court having

jurisdiction in the City for judicial relief within 30 days after rendition of the decision by the City Council.

Section 15.3. Board of Zoning Appeals (BZA) Reserved

The body established by City Council for the administration of matters relating to the application of appeals for relief from undue hardships imposed by strict and literal enforcement of the requirements or restrictions of the City's Land Development Regulations:

- (a) **~~Powers and Duties.~~** The BZA shall have the following powers and duties:
- (1) ~~To hear and recommend approval or denial of appeals where it is alleged there is error in any order, requirement, decision, determination or action of the Zoning Official or his staff in the enforcement of the zoning regulations, other than appeals of decisions on Certificates of Appropriateness which must follow the procedures in Section 16.3 and other than appeals of minor variation decisions and architectural review decisions in the Traditional Punta Gorda (TPG) zoning district, as provided in Section 3.2(i).~~
 - (2) ~~Holding public hearings, To recommend to the City Council, upon proper petition, approval or denial of to consider variances from the terms of the zoning regulations as shall not be contrary to the public interest, where in specific cases, owing to special circumstances, a literal enforcement of the zoning regulations would result in unnecessary and undue hardship.~~
 - a. ~~If the BZA's decision is appealed to the City Council in accordance with Section 16.10, such decision shall be treated as a recommendation to the City Council.~~
 - b. ~~If a valid appeal is not filed, such decision shall become the City of Punta Gorda's final action on the requested variance.~~
- (b) **~~Procedures.~~** All meetings shall be open to the public and shall be conducted in accordance with the rules of procedure adopted by the City Council. Such rules of procedure may be amended by the City Council upon recommendation of the Board. Any rules of procedure adopted shall be kept on file in the City Clerk's Office and shall be made available to the public at any meeting or hearing of the Board. The City Clerk or designee is authorized to administer oaths to any witnesses in any matter coming before the Board.
- (c) **~~Meeting Minutes.~~** The Board shall keep permanent minutes of all its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations and actions. The minutes shall be a public record.
- (d) **~~Staff.~~** The Director of Community Development or designee shall serve as staff to the Board and shall provide technical assistance as requested.
- (e) **~~Quorum and Vote Required.~~** A quorum of the Board, necessary to conduct any business, shall consist of four members. The concurring vote of a majority of the members of the Board, present for the hearing, shall be necessary in order to take any action on any matter.

Section 15.4. Historic Preservation Advisory Board [HPAB]

The body established by City Council for the administration of matters relating to the preservation and designation of Punta Gorda's historical, cultural, and/or archaeological resources.

- (a) **Powers and Duties.** The Board shall have the following powers and duties.
- (1) Undertake an inventory of properties of historical, architectural, and/or cultural significance.
 - (2) Recommend to City Council the formal designation of historic and neighborhood conservation districts and of individual additions to the Local Register of Historic Places (see Section 8.1). ~~structures, buildings, sites, areas, or objects to be designated by ordinance as Historic Overlay districts [HO].~~
 - (3) Recommend to City Council the acquisition of properties within established districts or any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or other legally binding restrictions which will secure appropriate rights or public access and promote the preservation of the property.
 - (4) Restore, preserve and operate historic properties with approval of City Council.
 - (5) Review and recommend action on ~~for staff approval of~~ applications for Certificates of Appropriateness where prior HPAB review is called for by criteria in Section 16.3.
 - (6) Develop and recommend for adoption design guidelines and other criteria to be used in the review of Certificates of Appropriateness.
 - (7) Conduct an education program with respect to historic landmarks and districts within its jurisdiction.
 - (8) Recommend that City Council consult with the owner of a building, structure, site, area or object on its acquisition or its preservation, when such action is reasonably necessary or appropriate.
 - (9) Review applications for special exceptions or variances for contributing buildings and structures in historic and neighborhood conservation districts and for historic landmarks (see Section 8.1).
 - (10) Hear appeals where it is alleged there is an error in any action of an administrative official regarding minor variations or architectural review in the TPG zoning district (see Section 3.2(i)).
- (b) **Procedures.** All meetings shall be open to the public and shall be conducted in accordance with the rules of procedure adopted by the City Council. Such rules of procedure may be amended by the City Council upon recommendation of the Board. Any rules of procedure adopted shall be kept on file in the City Clerk's

Office and shall be made available to the public at any meeting or hearing of the Board. The City Clerk or designee is authorized to administer oaths to any witnesses in any matter coming before the Board.

- (c) **Meeting Minutes.** The Board shall keep permanent minutes of all its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations and actions. The minutes of the Board shall be a public record.
- (d) **Staff.** The ~~Director of Community Development~~ Urban Design Director or designee shall serve as staff to the Board and shall provide technical assistance as requested
- (e) **Quorum and Vote Required.** A quorum of the Board, necessary to conduct any business, shall consist of four members. The concurring vote of a majority of the members of the Board, present for the hearing, shall be necessary in order to take any action on any matter.

Section 15.5. Planning Commission [PC] and Zoning Board [PZB]

The body established by City Council for the administration of matters relating to planning and land use regulation; ~~and the provision of recommendations on a wide array of land use and land use policy issues as required by Florida Statute 163.3174 Local Planning Agency, and the administration of matters relating to the application of appeals for relief from undue hardships imposed by strict and literal enforcement of the requirements or restrictions of the City's Land Development Regulations.-~~

- (a) **Powers and Duties.** The PC shall make recommendations to the City Council on the following areas under this Code.
 - (1) Amending, extending or adding to the comprehensive plan for the physical development of the City.
 - (2) Platting or subdividing land within the City.
 - (3) Adopting an official map/s of the City and recommend or disapprove proposed changes in such map/s.
 - (4) Adopting and amending a zoning ordinance and recommend or disapprove proposed changes in such ordinance.
 - ~~(5) Adopting plans for the clearance and rebuilding of slum districts and blighted areas within the City.~~
 - (5) (6) Adopting) Adopting a plan for the replanning, improvement and redevelopment of neighborhoods.
 - (6) (7) Adopting a plan for the replanning, reconstruction or redevelopment of any area or district which may be destroyed in whole or in part or seriously damaged by fire, earthquake, flood or other disaster.
 - (7) Holding public hearings on requests for Special Exceptions:
 - a. If the Planning Commission's decision is appealed to the City Council in accordance with Section 16.8, such decision shall be treated as a recommendation to the City Council.

- b. If a valid appeal is not filed, such decision shall become the City of Punta Gorda's final action on the requested Special Exception.
 - (8). To hear and recommend approval or denial of appeals where it is alleged there is error in any order, requirement, decision, determination or action of the Zoning Official or staff in the enforcement of the zoning regulations, other than appeals of decisions on Certificates of Appropriateness which must follow the procedures in Section 16.3 and other than appeals of minor variation decisions and architectural review decisions in the Traditional Punta Gorda (TPG) zoning district, as provided in Section 3.2(i).
 - (9). Holding public hearings, upon proper petition, to consider variances from the terms of the zoning regulations as shall not be contrary to the public interest, where in specific cases, owing to special circumstances, a literal enforcement of the zoning regulations would result in unnecessary and undue hardship.
 - a. If the Planning and Zoning Board decision is appealed to City Council in accordance with Section 16.10, such decision shall be treated as a recommendation to the City Council.
 - b. If a valid appeal is not filed, such decision shall become the City of Punta Gorda's final action on the requested variance.
- (b) **Procedures.** All meetings shall be open to the public and shall be conducted in accordance with the rules of procedure adopted by the City Council. Such rules of procedure may be amended by the City Council upon recommendation of the Board. Any rules of procedure adopted shall be kept on file in the City Clerk's Office and shall be made available to the public at any meeting or hearing of the Board. The City Clerk or designee is authorized to administer oaths to any witnesses in any matter coming before the Board.
- (c) **Meeting Minutes.** The Board shall keep permanent minutes of all its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and actions. The minutes shall be a public record.
- (d) **Staff.** The Director of ~~Community Development~~Urban Design or designee shall serve as staff to the Board and shall provide technical assistance as requested.
- (e) **Quorum and Vote Required.** A quorum of the Board, necessary to conduct any business, shall consist of four members. The concurring vote of a majority of the members of the Board, present for the hearing, shall be necessary in order to take any action on any matter.

Section 15.6. Zoning Official

The Zoning Official is a person appointed by the Urban Design Director charged with the administration, interpretation, and enforcement of the land use regulations

including the provision of recommendations on a wide array of land use and land use policy issues to the Historic Preservation Advisory Board, Planning and Zoning Board, and City Council.

(a) **Powers and Duties.** The Zoning Official shall have the authority to approve minor modifications to the following areas under this Code.

(1). **Uses.** Zoning Official has the authority to determine if uses not specifically listed in Article 3 are to be permitted, permitted with conditions, eligible for consideration under the Special Exception process or prohibited for all Zoning Regulating Districts and Overlays with the exception of Public.

(2). **Waterfront Property.** Zoning Official shall have the authority to permit waterfront setbacks of less than 25 feet for any man made non-navigable body of water including but not limited to stormwater management ponds or lakes as delineated by Section 8.19.

(3). **Yard Designation.** For lots that front on more than one street or for any irregularly shaped lot the Zoning Official shall determine the location of front, side, and rear yards. This determination will be based on the intent of the Zoning Regulating District and/or Overlay which the lot is sited.

(4). **Parking requirements.** Zoning Official shall be responsible for the following:

i. **Plan approval.** Approval of any plans for re-striping or modifying any existing parking plan created prior to the adoption of or in compliance with the provisions of Article 10 [Section 10.1].

ii. **Parking surfaces.** Approval of paving materials, with gravel or other stabilization material without a permanent wearing surface explicitly prohibited [Section 10.3(d)].

iii. **Parking aisle width.** Approval of parking aisle widths which exclusively serve Low Speed Vehicles [FS 316.2122] and/or Motorcycle/Scooter parking spaces [Section 10.3(f) (6)].

iv. **Loading Specifications.** Approval of reduced loading space requirements for freight vehicles based upon on-site uses or the

availability of shared loading facilities or off-site loading facilities within reasonable proximity of the development site.

- (5). **Landscape Requirements.** Zoning Official may modify the provisions of Article 12 Landscaping Standards as delineated in Section 12.2, Section 12.15, Section 12.16, and Section 12.17.
 - (6). **Certificates of Appropriateness.** Zoning Official has approval authority without HPAB review of certain Certificate of Appropriateness applications as delineated in Section 16.3 (a).
 - (7). **Application Submittal Requirements.** Zoning Official may waive certain application submittal requirements codified in Article 16, if the Zoning Official determines that such requirement is not material to the application review process.
 - (8). **Temporary Use Permits.** Zoning Official has the authority make decision on any temporary use application, unless the Zoning Official determines that the application requires Development Review Committee review and/or City Council decision.
 - (9). **Variances.** Zoning Official has the authority to determine if a variance application meets the criteria for an Administrative Variance Approval as codified in Section 16.10 (d).
- (b) **Procedures.** The Zoning Official shall undertake their powers and duties in the administration and enforcement of Chapter 26, Land Development Regulations to further the implementation of the City of Punta Gorda Comprehensive Plan. All decisions of the Zoning Official shall be in writing and maintained by the City as a public record.
 - (c) **Appeal of Decision.** Any person or persons jointly or severally aggrieved by any decision of the Zoning Official may appeal the decision to City Council within 30 days after rendition of the decision by the Zoning Official.