

## **Chapter 7 BUILDING REGULATIONS\***

### **ARTICLE I. BUILDING BOARD**

#### **Sec. 7-1. Created.**

There is hereby created the Punta Gorda Building Board, which shall have the powers, responsibilities and duties hereinafter set forth, and its membership shall be constituted as hereinafter set forth.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1328-02, <sec> 1, 3-6-02)

#### **Sec. 7-2. Membership; composition; terms; removal; vacancies.**

The Punta Gorda Building Board shall be made up of seven (7) members and two (2) alternate members to serve in the absence of a board member (or two (2) members) at a meeting. In the selection of the members, at least three (3) of those members must be consumer representatives. The consumer representatives may be any resident of the City of Punta Gorda or Charlotte County who is not and has never been a member or practitioner of a profession regulated by the board or a member of any closely related profession. For the remaining four (4) members, preference shall be given to the following professions and trades if available to serve: Engineering, architecture, general building contracting, plumbing, electrical construction, miscellaneous building trades. Members of the board shall be appointed by the City Council and, in order to ensure continuity, two (2) of its members shall be appointed each year for three-year terms. The seventh member may be appointed for a two-year term to coincide with the term of any other member. The City Council may remove any member from the Punta Gorda Building Board for good cause and, in the event of a vacancy for the reason of removal or for any other reason, the unexpired term shall be filled in the same manner as the regular appointments.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1154-96, <sec> 1, 5-15-96; Ord. No. 1328-02, <sec> 2, 3-6-02; Ord. No. 1540-08, <sec> 1, 2-20-08)

#### **Sec. 7-3. Powers and duties.**

The Punta Gorda Building Board shall have the following responsibilities:

- (a) To govern the conduct of business within the construction trades, to include penalties for violation of said standards and to hear cases of alleged violations to include revocation of permitting privileges.
- (b) To review enforcement relating to construction and to hear all complaints regarding enforcement procedures and to report its findings to the Building Official.
- (c) To hear and act upon Appeals from orders, requirements, decisions or determinations made by the Building Official under the provisions of Chapter 7, Article IV, City of Punta Gorda Code, the "Unsafe Building Abatement Code".
- (d) To hear and act upon any appeal timely filed to contest the validity of any notice of false alarm or fee assessment issued under Chapter 15, Section 15-19, Punta Gorda Code.
- (e) The board shall serve as an equalizing board to hear and consider any and all complaints concerning the amount of any special assessment established pursuant to the procedures set forth in Chapter 7, Article IV, Section 7-45(e), Punta Gorda Code, and shall adjust and equalize the special assessments, when it deems such action is

necessary. The board may only adjust or equalize the established special assessment upon a showing by an interested party that the amount of the established special assessment is unreasonable or that the property will not derive any special benefit from the improvements made by the City. The board shall follow the procedures set forth in Chapter 7, Article IV, Section 7-45(e) Punta Gorda Code.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1328-02, <sec> 3, 3-6-02; Ord. No. 1442-06, <sec> 1, 07-05-06; Ord. No. 1701-12, <sec> 2, 2-15-12; Ord. No. 1732-13, <sec> 1, 04-03-13; Ord. No. 1889-17, <sec> 1, 12-20-2017)

### **Sec. 7-3.1 Penalties, Restitution, Fines and Costs.**

- (a) The Punta Gorda Building Board, in addition to the powers enumerated in Section 7-3, is hereby granted authority, pursuant to Section 489.131(7)(b), Florida Statutes (2007), to impose one or a combination of the following actions against a locally licensed or registered contractor found guilty of violating the provisions of this Chapter:
- (1) Probation.
  - (2) Suspension of Certificate of Competency.
  - (3) Revocation of Certificate of Competency.
  - (4) Order of Restitution.
  - (5) Fine up to five thousand dollars (\$5,000.00) per offense.
  - (6) Assessment of reasonable legal and investigation costs incurred by the City of Punta Gorda to prosecute the case against the contractor.
  - (7) Issue a recommended penalty to the State of Florida Construction Industry Licensing Board. Said recommended penalty may include a recommendation for no further action, or a recommendation for suspension, revocation or restriction of the contractor's State registration, or a fine to be levied by the State of Florida Construction Industry Licensing Board, or a combination of such penalties.
- (b) The Punta Gorda Building Board, in addition to the power enumerated above, is hereby granted authority to hear complaints regarding state certified contractors alleged to have violated the provisions of Chapter 7. Upon a finding of violation, the board is granted authority to take any of the following actions against a state certified contractor:
- (1) Deny, suspend or revoke the authority of the certified contractor to obtain a building permit or limit such authority to obtaining a permit or permits with specific conditions if the Building Board finds the certified contractor guilty of violating any provision of Chapter 7 in the City of Punta Gorda.
  - (2) Deny, suspend or revoke the authority of the certified contractor to obtain a building permit or limit such authority to obtaining a permit or permits with specific conditions if the Building Board has proof that such contractor, through the public hearing process, has been found guilty in another county or municipality within the past 12 months of a building code violation and finds, that such violation would have been a violation if committed in the City of Punta Gorda.
  - (3) Refuse to issue permits with specific conditions to a contractor who has committed and has been disciplined for multiple violations when the additional provisions of Section 489.131(3)(f), Florida Statutes, have been met.

(Ord. No. 1418-05, <sec> 1, 09-07-05; Ord. No. 1540-08, <sec> 2, 2-20-08; Ord. No. 1889-17, <sec> 1; 12-20-2017)

**Sec. 7-4. Oath of members.**

Each member of the board shall, before entering upon the discharge of his duties, prepare and file with the City Clerk an oath, in writing, to properly perform his duties as a member of said board and to uphold the laws of the City, the constitution and laws of the State of Florida, and the constitution and laws of the United States.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1328-02, <sec> 4, 3-6-02)

**Sec. 7-5. Organization; officer, meetings, quorum.**

The Building Board shall have the power to promulgate rules and regulations governing its operation and to elect a Chairman and Vice-Chairman, each to serve one year. The board shall meet at such times as it may deem necessary or as it may be required to do so by the City Council. Four (4) members shall constitute a quorum for any meeting. The rules and regulations provided for the above shall be subject to approval by the City Council. A Recording Secretary shall be provided at City expense for all regular and special meetings.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1328-02, <sec> 5, 3-6-02)

**Secs. 7-6--7-9. Reserved.**

## **ARTICLE II. BUILDING CONTRACTORS**

### **Sec. 7-10. Scope of provisions.**

Every person, firm, co-partnership, corporation, association or any combination thereof engaged in the practice of accepting orders or contracts, whether as a so called "general contractor" or as a "subcontractor," for the construction, remodeling, alteration or repair of a building, or parts of a building, on cost plus, fixed fee, stated sum, percentage, or any combination thereof, or other compensation other than wages, shall be deemed to be a building contractor within the meaning of this chapter.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1328-02, <sec> 6, 3-6-02)

### **Sec. 7-11. Certificate of Competency prerequisite to engaging in business.**

- (a) No person, persons or corporation shall engage in contracting or specialty contracting without first obtaining a Certificate of Competency issued by the City of Punta Gorda, except as provided below. Furthermore, all persons or corporations shall be Certified or Registered with the Department of Professional Regulation, State of Florida, per Chapter 489, F.S. Contractors or specialty contractors requiring Certificates of Competency within the City may fulfill Certificate of Competency criteria by presenting a Charlotte County Certificate of Competency which is in good standing.
  - (1) Exemptions. Owners of property when acting as their own contractor and providing all material supervision themselves when building or improving one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale or lease; or buildings or improving commercial buildings at a cost under twenty-five thousand dollars (\$25,000.00) on such property for the occupancy or use of such owners and not offered for sale or lease.
  - (2) In an action brought under subsection (a)(1) above, proof of the sale or lease or offering for sale or lease of more than one (1) such structure by the owner-builder within one (1) year after completion of same is prima facie evidence that the construction was undertaken for purposes of sale or lease.
  - (3) Subsection (a)(1) above does not exempt any person who is employed by such owner and who acts in the capacity of a contractor.
  - (4) To qualify for exemption under sub-subsection (a)(1) above, an owner must personally appear and sign the building permit application and the disclosure statement. The owner must be readily available during the construction of the building.
- (b) It shall be unlawful for a building contractor, as defined herein, or an owner exempt under sub-subsection (a)(1) above, to hire a subcontractor as an independent contractor that does not have a valid Certificate of Competency under the provisions of this chapter. When a subcontractor is represented to be an employee of the building contractor, who has a Certificate of Competency in the specialty work being done by the employee, and the Certificate of Competency requirement is claimed not to apply to the employee, the Building Official will require that the building contractor present supporting evidence as specified in each of the following sub-subsections:
  - (1) Presentation of the employee's check stub, showing that the employee was on the

- payroll at the time he started work on the project in question, or a copy of the employer's payroll showing the same.
  - (2) The employer is making the proper deductions for withholding taxes and social security payments.
  - (3) The employee is covered by the employer's liability and workman's compensation insurance.
  - (4) A copy of the Employee Quarterly Wage Report, Florida State Form UCT-6 and 6W.
- (c) Employee leasing companies, licensed by the state in lieu of a Certificate of Competency shall:
- (1) Provide written notice to each worker assigned to work for a building contractor in the City, of the written employment relationship with a client of the employee leasing company; and
  - (2) File with the City Building Division, evidence of worker's compensation coverage for all employees leased or to be leased to client companies within the City of Punta Gorda, so that its client companies may continue their permitting privilege; and
  - (3) Shall notify the City in writing of the lease of an employee who is licensed, registered or certified, where the client company leases said employee for use with the license, registration or certificate. The client company shall be deemed to be the employer of the employee for licensure purposes.

*(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 966-89, <sec><sec> 1, 2, 9-6-89; Ord. No. 1019-91, <sec> 2, 1-16-91; Ord. No. 1040-92, <sec> 2, 3-18-92; Ord. No. 1173-97, <sec> 1, 01-03-97; Ord. No. 1328-02, <sec> 7, 3-6-02)*

## **Sec. 7-12. Application and Fees for a Certificate of Competency.**

- (a) The fee for a Certificate of Competency for a State Registered or Specialty Contractor shall be one hundred dollars (\$100.00) payable annually on or before September 30 of each year. Certificates not renewed on or before September 30 shall be considered delinquent fee of twenty-five dollars (\$25.00). State Certified Contractors are also required to register annually for a Certificate of Competency but at no charge per State law. Payment of such fee(s) shall not relieve any applicant from the requirement to pay the Local Business Tax imposed by section 12-1 of this Code. The fee for a contractor who engages in business as a building contractor, as defined herein, prior to obtaining a Certificate of Competency shall be three hundred dollars (\$300.00) payable at the time of application. All applicants for certificates under this Chapter shall apply to the Building Official by executing and filing the required application form at the office of the Building Division and paying the required fee. The application shall contain information as to name, qualifications, financial and business reference, place of business, residence of applicant and shall be notarized.

Contractors who hold a Certificate of Competency shall also be required to provide current certificates of insurance for workers' compensation and general liability with their registration form as well as provide updated certificates upon expiration of same.

- (b) Investigation, examination of applicant.
  - (1) The Building Official shall carefully investigate the information given on the application and, if satisfied with the applicant's general qualifications and financial and business references, he shall issue the certificate.

- (2) If the Building Official shall find that the applicant has not submitted satisfactory evidence of his qualifications and references as aforesaid, the applicant shall be notified thereof in writing and shall be given opportunity to submit satisfactory evidence thereof. In the event that the Building Official shall find that the applicant is unable to submit satisfactory evidence of his general qualifications and references as aforesaid, the applicant shall be so advised in writing and shall have the right to appeal from the Building Official to the Building Board.

(c) Duration, renewal of Certificate of Competency.

All Certificates of Competency issued under the provisions of this article shall expire on September 30 of each year. Any holder of a certificate may renew his/her certificate within ninety (90) days from its expiration without reexamination and shall secure his current certificate by paying the required fee.

- (d) Change of name. Any change of name under which a certificate has been issued shall be approved by the Building Official. The present Certificate of Competency holder must submit a new Department of Professional Regulation registration card showing the name change. The name change fee will be fifty dollars (\$50.00).
- (e) State certified contractors. The Building Board may deny the issuance of a building permit or issue a permit under specific conditions or do any other thing authorized under Florida Statutes 489.113, or as amended in the future, with respect to State certified contractors.
- (f) Any person who can show proof that they were previously granted a City of Punta Gorda specialty contractor's Certificate of Competency by the grandfather clause and let it lapse, may at the discretion of the Building Official have their certificate renewed by paying a one hundred dollar (\$100.00) late fee, along with the submission of all current Certificate of Competency renewal requirements, including payment of the one hundred dollar (\$100.00) renewal fee. Reinstatement by this method will be on a one time approval only. Any further failures to renew will result in the applicant being required to show proof of having passed a Block exam.

*(Ord. No. 789-95, <sec> 1, 4-17-85; Ord. No. 892-87, <sec> 1, 11-4-87; Ord. No. 991-90, <sec> 2, 8-15-90; Ord. No. 1017-91, <sec> 2, 1-2-91; Ord. No. 1054-92, <sec><sec> 2--5, 7-15-92; Ord. No. 1055-92, <sec> 2, 7-15-92; Ord. No. 1072-93, <sec> 1, 5-19-93; Ord. No. 1328-02, <sec> 8, 3-6-02; Ord. No. 1609-09, <sec> 1, 8-5-09; Ord. No. 1834-15, <sec> 1, 12-2-2015; Ord. No. 1858-16, <sec> 1, 10-5-2016; Ord. No. 1889-17, <sec> 1, 12-20-2017)*

### **Sec. 7-13. Action Against Certificate Holders.**

- (a) The City of Punta Gorda, through its authorized agents, upon the verified written complaint of any person, or upon other evidence of a violation, shall investigate the action of any holder of a certificate of competency, whether certified, registered or local, and hold a hearing to determine the necessity for disciplinary action. The certificate holder shall be notified by certified mail and regular mail of the time and place of such hearing and shall be furnished a copy of the complaint or a short and plain statement of the matters asserted by the complainant. All parties shall have the opportunity to be heard and present evidence and argument on the issues involved, to conduct cross examination and submit rebuttal evidence. In all disciplinary proceedings before the board, the burden of proof shall be on the City of Punta Gorda. Proof shall be by substantial competent evidence presented to the board by the Chief Building Official or anyone having standing in the matter.

The following acts are unlawful, constitute cause for disciplinary action, and are hereby deemed willful building code violations:

- (1) Any violation of F.S. section 489.129 or section 489.533, whether by a certified, registered or local contractor.
- (2) The making of a material false statement in the application for or renewal or updating of any certificate or registration, or for the issuance of any permit.
- (3) Any act which results in a reprimand, censure, revocation, suspension or other discipline by any board of the Florida Department of Professional Regulation.
- (4) Willful or deliberate disregard and violation of any lawful order of the board, any provisions of City of Punta Gorda, Chapter 7, any provisions of any code adopted pursuant to this chapter, or any state law regulating the construction industry, including F.S. Chapter 489 and Part I of Chapter 455.
- (5) Abandoning a construction project in which the contractor is engaged or under contract as a contractor. A project shall be considered abandoned after ninety (90) days if the contractor terminates the project without just cause, or without proper notification to the owner, including the reason for termination, or fails to substantially perform work under the contract. Construction is considered to be commenced when the contract is executed and the contractor has accepted funds from the customer or lender.
- (6) Using or attempting to use a certificate of competency, whether certified, registered or local, which has been suspended, revoked, placed inactive, expired or voluntarily surrendered.
- (7) Refusing certified mail directed to the contractor by the Building Division.
- (8) Failing to notify the Building Division in writing of any change in the physical address or mailing address of the business within thirty (30) days of said change.
- (9) Failing to appear in person or through an attorney at any scheduled hearing on a complaint filed against the contractor.
- (10) Failing to stop work on a project after being ordered to do so by the Chief Building Official, Building Inspector or the Fire Marshall.
- (11) Failing to comply with the provisions of Chapter 7, section 7-20, regarding workers' compensation and liability insurance.
- (12) Failing to register any local certificate of competency with the state when required to do so.
- (13) If a state certified contractor, failing to register with the City of Punta Gorda prior to contracting or commencing work in the City of Punta Gorda.
- (14) Failing to post any required building permit in a conspicuous place in front of the premises where the work is being performed.

- (15) Failing to present for inspection any certificate of competency, along with proper identification, upon request of the Chief Building Official, Building Inspector or the Fire Marshall.
- (16) Failing to keep all payroll, including time cards and time sheets, salary, withholding tax, social security and FICA records pertaining to the workers on the job as required by state statute.
- (17) Failing to cause to appear on any bid, business proposal, contract, newspaper advertisement, airwave transmission advertisement, paid telephone directory listing or other advertising medium used by the contractor, the certificate of competency number (license number) whether state or local.
- (18) If the name of the business or type of work performed by the business appears on a vehicle, failing to also display the certificate of competency number (license number) in numbers and letters not less than two (2) inches in height, and in colors contrasting the background color.
- (19) Failing to file with the Building Division a subcontractor change form prior to permitting any subcontractor not on the subcontractor worksheet, or the most recent previously filed subcontractor change form, to work on the jobsite.
- (20) Failing to obtain inspections including but not limited to final inspections.
- (21) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting.
- (22) Performing any act which assists a person or entity in engaging in the prohibited uncertified, unregistered or unlicensed practice of contracting, if the certificate holder or registrant knows or has reasonable grounds to know that the person or entity was uncertified, unregistered or unlicensed.
- (23) Knowingly combining or conspiring with an uncertified unregistered person by allowing his or her certificate or registration to be used by the uncertified, unregistered or unlicensed person with intent to evade the provisions of this part. When a certificate holder or registrant allows his or her certificate or registration to be used by one or more business organizations without having any active participation in the operations, management, or control of such business organizations such act constitutes prima facie evidence of intent to evade the provisions of this chapter.
- (24) Acting in the capacity of a contractor under any certificate or registration issued hereunder except in the name of the certificate holder or registrant as set forth on the issued certificate or registration, or in accordance with the personnel of the certificate holder or registrant as set forth in the application for the certificate or registration, or as later changed as provided in this chapter.
- (25) Committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

1. Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job; the contractor has received funds from the customer to pay for the supplies or services; and the contractor has not had the liens removed from the property, by payment or by bond, within 75 days after the date of such liens;
  2. The contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after the date the job is abandoned; or
- (26) Signing a statement with respect to a project or contract falsely indicating that the work is bonded; falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner, purchaser, or contractor; or falsely indicating that workers' compensation and public liability insurance are provided.
- (27) Committing fraud or deceit in the practice of contracting.
- (28) Committing incompetency or misconduct in the practice of contracting.
- (29) Committing gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property.
- (30) Proceeding on any job without obtaining applicable local building department permits and inspections.
- (31) Intimidating, threatening, coercing, or otherwise discouraging the service of a notice to owner under part I of chapter 713 or a notice to contractor under part I of chapter 713.
- (32) Failing to satisfy within a reasonable time, the terms of a civil judgment obtained against the licensee, or the business organization qualified by the licensee relating to the practice of the licensee's profession.
- (33) Violating chapter 633 or the rules of the State Fire Marshal.
- (34) Practicing beyond the scope of a certification or registration.
- (35) Being disciplined by any municipality or county for a violation directly related to the practice of the licensee's profession.
- (36) Failing, when requested by the Chief Building Official, to secure a construction site under the contractor's control against the threat of severe weather. These actions may include but are not limited to: securing loose roof tile by bundling or removal, emptying or tarping dumpster(s), securing all construction material or debris on site, securing portable toilets, removing any obstacles that could hinder drainage and any other reasonable actions deemed necessary by the Chief Building Official to protect adjacent life and property.

For the purposes of this subsection, construction is considered to be commenced when the contract is executed and the contractor has accepted funds from the customer or lender.

- (b) Procedure. The Building Official of the City, the architect or engineer responsible for the plans under which the contractor is working, or any person directly interested, may proffer charges against any certificate holder under this chapter, charging any of the above acts or omissions. A copy of the charges, together with notice of the time and place of hearing, shall be served on the persons so charged, by certified mail, at least five (5) days before the date fixed for the hearing. At the hearing, the person so charged shall have the right to appear personally and by counsel to cross-examine witnesses and inspect evidence produced against him, to present evidence, oral or documentary, in defense, and to cause all proceedings to be legally recorded at his expense.
- (c) Authority of Building Board. The Building Board shall, after considering the charges, evidence and arguments, make definite findings and recommendations either sustaining the charges and finding the Certificate Holder guilty or finding the person so charged not guilty. In the event that the charges shall be sustained, the Board shall impose one or a combination of actions against the Certificate Holder as provided for in section 7-3.1. Upon a finding of guilt, the Board shall immediately inform the State of Florida Construction Industry Licensing Board of its actions. Upon application to the Board for reinstatement, the Board shall consider the request and may then reinstate the certificate upon such terms and conditions as it may impose. The Board shall not issue, renew, lift a suspension or reinstate a Certificate to any person that has been assessed a fine or reasonable legal and investigation costs, or who has been ordered to pay restitution, until such fine, costs and restitution are paid in full. Orders of Restitution shall be based upon evidence and testimony presented by the injured property owner at the hearing conducted pursuant to the provisions of this Section. While the Order of Restitution must be satisfied before the guilty Certificate Holder may obtain issuance, renewal, a lifting of suspension or reinstatement of its Certificate, the Order shall not create a cause of action on behalf of the Building Board or the City of Punta Gorda, Florida. It is the intent of this Section that all civil remedies available to the injured property owner against the Certificate Holder are reserved to said owner and shall be unaffected by this section. Start here
- (d) In imposing fines, determining the amount of restitution to be ordered and assessing costs, the Board may, in addition to other relevant factors, take into consideration the following:
  - (1) The monetary or other damage suffered by the violator's customer, which damage the violator has not already mitigated as of the time the penalty is assessed.
  - (2) Actual job site violations of building codes or conditions exhibiting gross negligence, incompetence or misconduct by the violator which have not been corrected at the time the penalty is assessed.
  - (3) The severity of the violation.
  - (4) The danger to the public.
  - (5) The number of violations.
  - (6) The length of time the violator has engaged in contracting.

- (7) The deterrent effect of the penalty.
- (8) The effect of the penalty upon the violator's livelihood.
- (9) The violator's efforts at rehabilitation.
- (10) Other mitigating or aggravating circumstances.

- (e) The Board Clerk is hereby directed to deliver a copy of the Board's Order by Certified Mail to the violator and to the complainant. Said Order shall include notice that any aggrieved party may seek review of the Board's Order by filing a direct appeal in the Circuit Court of the Twentieth Judicial Circuit in and for Charlotte County, Florida, for a review of the record upon which the Order is based, in accordance with the procedure and within the time provided in the Florida Rules of Appellate Procedure for the review of rulings of any local government board. The Order shall also state that the failure to timely seek review of the Board's Order shall constitute a waiver of any right for review.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1328-02, <sec> 9, 3-6-02; Ord. No. 1418-05, <sec> 2, 09-07-05; Ord. No. 1889-17, <sec> 1, 12-20-2017)

#### **Sec. 7-14. Reserved.**

#### **Sec. 7-15. Exemptions from provisions.**

This chapter shall not apply to:

- (a) Employees of the United States of America, the State of Florida, Charlotte County, or the City of Punta Gorda who are doing work or construction in their official capacities.
- (b) As to examination provisions only, the contractors operating under current certificates issued before April 17, 1985, provided that such certificates shall be renewed in the manner set forth in subsection 7-12 (a).
- (c) Sole owners of property, building structures or making repairs for their own use, and not for sale or rental, except that owners of rental property may make minor repairs thereto without complying herewith.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1173-97, <sec> 2, 01-03-97; Ord. No. 1328-02, <sec> 10, 3-6-02)

#### **Sec. 7-16. Certifying of persons licensed elsewhere for City Contracts.**

Any person, hereinafter referred to as applicant, having been awarded a construction contract with the City is eligible to receive a certificate under this chapter for and during the period of construction under said contract, provided such applicant has taken an examination and has been duly certified by an examining board of some recognized governmental agency in the State of Florida, acceptable to the Building Official.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1328-02, <sec> 11, 3-6-02)

#### **Sec. 7-17. Violations and penalties.**

Any person or persons, and the members of any firm, partnership, corporation, association or

other organization or any combination thereof, presenting or attempting to file or use the certificate of another or who shall give false or forged evidence of any kind to the board or to any member thereof, in obtaining or maintaining a certificate, or who shall falsely impersonate another or who shall use an expired, suspended or revoked certificate, or who shall violate any one or more of the provisions of any section of this chapter shall, upon conviction, be punished as provided in section 1-6 of this code, and be subject to such other remedy within the law the Building Official deems appropriate.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1328-02, <sec> 12, 3-6-02)

**Sec. 7-18. Certificate of Competency requirements.**

- (a) Registered general contractors, building contractors, residential contractors, and specialty contractors shall comply with the following:
  - (1) Complete application for certificate of competency.
  - (2) Provide a clear copy of the applicant's State of Florida driver's license or State of Florida identification card.
  - (3) Show proof of insurance in the following amounts: bodily injury liability, three hundred thousand dollars (\$300,000.00); property damage, fifty thousand dollars (\$50,000.00).
  - (4) Provide a clear copy of applicant's current license issued by the State of Florida, Department of Business and Professional Regulation or a current Certificate of Competency issued by a Florida municipality.
  - (5) Payment of all required fees.
- (b) Certified general contractors, building contractors, and residential contractors shall file with the City a completed application, a certificate of insurance, and a copy of the State certification.
- (c) Applicants for the following categories shall show evidence of a passing score after having taken the master's examination of an approved agency:
  - (1) Electricians;
  - (2) Plumbers;
  - (3) Air conditioning contractors;
  - (4) Sheet metal contractors;
  - (5) Swimming pool contractors;
  - (6) Roofing contractors.
- (d) Contractors installing fire extinguishing systems, standpipes, sprinklers and similar apparatus shall be certified by the State Fire Marshal.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1173-97, <sec> 3, 01-03-97; Ord. No. 1328-02, <sec> 13, 3-6-02; Ord. No. 1606-09, <sec> 1, 6-3-09; Ord. No. 1834-15, <sec> 2, 12-2-2015)

### **Sec. 7-19. Issuance of Certificate of Competency.**

- (a) The Building Official shall review all applications and if deemed complete, shall cause a City of Punta Gorda Certificate of Competency to be issued to the applicant.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1834-15, <sec> 3, 12-2-2015)

### **Sec. 7-20. Insurance.**

- (a) A certificate of insurance shall be sent to the City by the insurance company before the issuance of a Certificate of Competency. Lapse or cancellation of the required insurance shall cause immediate suspension of the contractor's Certificate of competency with reinstatement upon proof of the required insurance being again an effect.
- (b) The minimum coverage required for any type of contractor shall be:
  - (1) Bodily injury liability . . . . Three hundred thousand dollars (\$300,000.00);
  - (2) Property damage . . . . Fifty thousand dollars (\$50,000.00);
  - (3) Workman's compensation . . . . Statutory.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1606-09, <sec> 2, 6-3-09)

### **Sec. 7-21. Reserved.**

(Ord. No. 789-85, <sec> 1, 4-7-85; Ord. No. 1834-15, <sec> 4, 12-2-2015)

### **Sec. 7-22. Reserved.**

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1834-15, <sec> 4, 12-2-2015)

### **Sec. 7-23. Interpretations by Building Board.**

When requested by the Building Official or an aggrieved firm or individual, the Building Board shall hear and interpret any matter relating to the building codes as provided for in the Florida Building Code as adopted by the City.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1328-02, <sec> 14, 3-6-02)

### **Sec. 7-24. Complaints and disciplinary action.**

- (a) Any owner, architect, engineer, designer or directly interested party may make a complaint to the Building Board when violations of the various codes exist or when a party has reason to believe that fraud, commingling of funds, or other action of a dishonest nature or intent may exist.
- (b) The Building Official shall require the party making such complaint to file an information and notarized affidavit stating the facts of the case, provide copies of all contracts and correspondence pertaining to the issues.
- (c) The Building Official shall make a thorough investigation of the facts of the case, requesting assistance from the Building Board members as may be necessary, and submit his findings to the Building Board at the next regular meeting.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1328-02, <sec> 15, 3-6-02)

**Sec. 7-25. Reserved.**

**Secs. 7-26--7-28. Reserved.**

## ARTICLE III . BUILDING CODES AND REGULATIONS

### Sec. 7-29. Building code adopted.

The Florida Building Code, and all the appendices, copies of which are maintained in the Code Compliance/Building Division, are hereby adopted and incorporated herein, and, from the date on which this section shall take effect, the provisions therein shall be controlling in the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure, or any appurtenances connected or attached to such buildings or structures, within the limits of the City.

#### 1. Building Division.

- (a) Establishment. There is hereby established a division to be called the Building Division and the person in charge shall be known as the Building Official.
- (b) Employee qualifications.
  - (1) Building Official qualifications. The Building Official shall have at least ten years experience or equivalent, as an architect, engineer, inspector, contractor or superintendent of construction, or any combination of these, five years of which shall have been in responsible charge of work. The Building Official should be certified as a Building Official through a recognized certification program. The Building Official shall be appointed or hired by the City Manager.
  - (2) Chief inspector qualifications. The Building Official, with the approval of the City Manager, may designate chief inspectors to administer the provisions of the Building, Electrical, Gas, Mechanical and Plumbing Codes. Each chief inspector shall have at least ten years experience or equivalent, as an architect, engineer, inspector, contractor or superintendent of construction or any combination of these, five years of which shall have been in responsible charge of work. They should be certified through a recognized certification program for the appropriate trade.
  - (3) Inspector qualifications. The Building Official, with the approval of the City Manager, may appoint or hire such number of officers, inspectors, assistants and other employees as shall be authorized from time to time. A person shall not be appointed or hired as inspector of construction who has not had at least five years experience as a building inspector, engineer, architect or as a superintendent, foreman or competent mechanic in charge of construction. The inspector should be certified through a recognized certification program for the appropriate trade.
- (c) Records. The Building Official shall keep, or cause to be kept, a record of the business of the division. The records of the division shall be open to public inspection.
- (d) Reports. The Building Official shall submit annually a report covering the work of the Building Division during the preceding year. He may incorporate in said report a summary of the decisions of the Building Board during said year.

## **2. Powers and Duties of the Building Official**

- (a) General. The Building Official is hereby authorized and directed to enforce the provisions of this code. The Building Official is further authorized to render interpretations of this code which are consistent with its spirit and purpose.
- (b) Right of entry. Whenever necessary to make an inspection, to enforce any of the provisions of this code, or whenever the Building Official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing system unsafe, dangerous or hazardous, the Building Official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this code. If such building or premises are occupied he shall first present proper credentials and request entry. If such building, structure or premises are unoccupied he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the Building Official shall have recourse to every remedy provided by law to secure entry.
- (c) Stop work orders. Upon notice from the Building Official, work on any building, structure, electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work and shall state the conditions under which work may be resumed. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work.
- (d) Revocation of permits. Misrepresentation of application. The Building Official may revoke a permit or approval issued under the provisions of this code in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- (e) Unsafe buildings or systems. All buildings, structures, electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary or do not provide adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings, structures or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition.
- (f) Requirements not covered by code. Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this or the other technical codes shall be determined by the Building Official.

## **3. Permits.**

- (a) Additional data. The Building Official may require details, computations, stress diagrams and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications and accompanying data required by the Building Official to be prepared by an architect or engineer shall be affixed with their official seal.

- (b) Site drawings. Drawings shall show the location of the proposed building or structure and of every existing building or structure on the building site or lot. The Building Official may require a boundary line survey prepared by a qualified surveyor.
- (c) Hazardous occupancies. The Building Official may require the following:
  - (1) General site plan. A general site plan drawn at a legible scale which shall include, but not be limited to, the location of all buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment and adjacent property uses. The exterior storage areas shall be identified with the hazard classes and the maximum quantities per hazard class of hazardous materials stored.
  - (2) Building floor plan. A building floor plan drawn to a legible scale which shall include, but not be limited to, all hazardous materials storage facilities within the building and shall indicate rooms, doorways, corridors, exits, fire rated assemblies with their hourly rating, location of liquid tight rooms and evacuation routes. Each hazardous material storage facility shall be identified on the plan with the hazard classes and quantity range per hazard class of the hazardous materials stored.
- (d) Special foundation permit. When application for permit to erect or enlarge a building has been filed and pending issuance of such permit, the Building Official may, at his discretion, issue a special permit for the foundation only. The holder of such a special permit is proceeding at his own risk and without assurance that a permit for the remainder of the work will be granted nor that corrections will not be required in order to meet provisions of the technical codes.
- (e) Building permit valuations. If, in the opinion of the Building Official, the valuation of building, alteration, structure, electrical, gas, mechanical or plumbing systems appear to be underestimated on the application, permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official. Permit valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment and other systems, including materials and labor.

#### **4. Inspections.**

- (a) Existing building inspections. Before issuing a permit, the Building Official may examine or cause to be examined any building, electrical, gas, mechanical or plumbing systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install or change the occupancy. He shall inspect all buildings, structures, electrical, gas, mechanical and plumbing systems from time to time, during and upon completion of the work for which a permit was issued. He shall make a record of every such examination and inspection and of all violations of the technical codes.
- (b) Manufacturers and fabricators. When deemed necessary by the Building Official, he shall make or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the technical codes.

- (c) Inspection service. The Building Official may make, or cause to be made, the required building inspections. He may accept reports of inspectors of recognized inspection services, provided that after investigation he is satisfied as to their qualification and reliability. A certificate called for by any provision of the technical codes shall not be based on such reports unless the same are in writing and certified by a responsible officer of such service.

## **5. Tests.**

The Building Official may require tests or test reports as proof of compliance. Required tests are to be made at the expense of the owner, or his agent, by an approved testing laboratory or other approved agency.

## **6. Violations and Penalties.**

Any person, firm, corporation or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, shall be guilty of a misdemeanor. Each such persons shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued, and upon conviction of any such violation such person shall be punished within the limits as provided by State law.

## **7. Wind Zone.**

Construction in the City of Punta Gorda shall be designed for wind loads per figure 1606 of the Florida Building Code an certified by a registered engineer or architect for all permitted construction.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 936-88, <sec> 1, 11-16-88; Ord. No. 1173-97, <sec> 4, 01-03-97; Ord. No. 1231-98, <sec> 1, 10-21-98; Ord. No. 1328-02, <sec> 17, 3-6-02)

## **Sec. 7-30. Green Building Program.**

The provisions of this section shall be known as the City of Punta Gorda "Green Building Program".

### **1. Definitions.**

The following words, terms and phrases, when used in this section, shall have meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (a) FGBC: Acronym for the Florida Green Building Coalition, Inc., a Florida 501(c)3 not-for-profit corporation whose mission is to establish and maintain a Florida system of statewide green building standards and third party certification programs with environment and economic benefits.
- (b) Federal tax credit for energy efficient homes: Refers to the tax credit recognized by the United States Internal Revenue Service for the construction of a home.

- (c) Federal tax credit for solar energy systems: Refers to the tax credit recognized by the United States Internal Revenue Service for installation of qualified residential solar water heating or photovoltaic systems.
- (d) Florida Solar Energy Center (FSEC): As the State of Florida's energy research institute, FSEC conducts research in Building Science, Photovoltaics, Solar Thermal, Hydrogen and Alternative Fuels, Fuel Cells and other advanced energy technologies.
- (e) Florida Solar Energy System Incentives Program: A program of state law providing for rebates for the installation of qualified solar energy systems, codified at section 377.806, Florida Statutes.
- (f) GBI: Acronym for the Green Building Initiative, a not-for-profit organization whose mission is to accelerate the adoption of building practices that result in energy-efficient, healthier and environmentally sustainable buildings by promoting credible and practical green building approaches for residential and commercial construction.
- (g) Green Building: A designation given to buildings that have achieved the requirements of a green building rating system defined in this green building program.
- (h) Green Building Program: The program outlined in this section for obtaining incentives for green buildings and developments.
- (i) Green Globes: The U.S. commercial/institutional building rating system administered by the Green Building Initiative.
- (j) LEED: The Leadership in Energy and Environmental Design Rating System of the U.S. Green Building Council.
- (k) NAHB: Acronym for the National Association of Home Builders, a Washington based trade association whose mission is to enhance the climate for housing and the building industry.
- (l) Project: Any construction associated with the creation, development or erection of any building or development eligible for the program.
- (m) Project Application Form: The form submitted indicating that an owner is interested in participating in the program for a particular project.
- (n) Sustainable Construction: The process of environmentally sensitive, resource efficient site selection, preparation, design, construction and operation of buildings.
- (o) USGBC: Acronym for the United States Green Building Council, a not-for-profit organization whose mission is to transform the way buildings and communities are designed, built and operated, enabling an environmentally and socially responsible, healthy and prosperous environment that improves the quality of life.

## **2. Designation of Responsibility for Administration and Implementation.**

- (a) The Building Division shall be responsible for:

- (1) Marketing the Green Building Program to the community by any reasonably effective means, including but not limited to press releases, television advertising or advertising in electronic or print mailers and the marketing incentives outlined in Section 7-30.5; and
  - (2) Developing any appropriate or necessary application procedures, including but not limited to, the Green Building Program Application Form; and
  - (3) Writing policies and procedures for staff implementation of the Green Building Program; and
  - (4) Assisting in the development of incentives to award to any project that successfully satisfies the requirements associated with the Green Building Program; and
  - (5) Review ordinances proposed for adoption by the City Council with the city department responsible for drafting the ordinance. Building Division will review proposed ordinances for changes that include subject areas used by certification programs for conflicts and offer recommendations to make the ordinances more compatible with Green Building.
- (b) Any disputes regarding the administration of the Green Building Program may be appealed to the City of Punta Gorda Building Board.

### **3. Green Building Program Applicability.**

- (a) For all private projects, the Green Building Program shall be voluntary.
- (b) For any new building owned and constructed by or on behalf of the City of Punta Gorda, the Green Building Program shall be mandatory.
- (c) For any renovation of a government building owned by the City of Punta Gorda undergoing a level III alteration, per Florida Building Code, the Green Building Program shall be mandatory if a cost analysis can demonstrate 100% pay back within ten years.

### **4. Green Building Standards.**

In addition to the Florida Building Code's minimum standards, projects shall qualify for incentives by being certified using standards developed by the U.S. Green Building Council, the Green Building Initiative, the Florida Green Building Coalition or the National Association of Home Builders. These standards shall apply to each category of construction as follows:

- (a) New residential permitted projects: New residential projects shall satisfy all of the requirements including but not limited to any monetary or certification requirements associated with:
  - (1) the current USGBC LEED for Homes® program,
  - (2) the current NAHB national Green Home program, or
  - (3) the GBI Green Globes new home designation, or

- (4) the current Green Home Designation Standard of the FGBC,
- (b) Remodeling of existing homes: The participant shall meet requirements of remodeling certification including but not limited to any monetary or certification requirements associated with:
  - (1) the current USGBC LEED for Homes® program,
  - (2) the current NAHB national Green Home program, or
  - (3) the GBI Green Globes new home designation, or
  - (4) the current Green Home Designation Standard of the FGBC, including, but not limited to, any monetary or certification requirements. The home shall meet the requirements for “remodeling” or “existing home” of the designation.
- (c) New commercial or institutional buildings: The program participant shall satisfy all of the requirements including but not limited to any monetary or certification requirements associated with:
  - (1) the current LEED for New Construction or applicable USGBC LEED rating system (e.g., LEED for Schools, LEED for Health Care), or
  - (2) the Green Globes environmental assessment system for new design, or
  - (3) the current Green Commercial Designation Standard of the FGBC,
- (d) Existing commercial and institutional building: The program participant shall satisfy all of the requirements including but not limited to any monetary or certification requirements associated with:
  - (1) the current LEED for New Construction or applicable USGBC LEED rating system (e.g., LEED for Schools, LEED for Health Care), or
  - (2) the Green Globes environmental assessment system for new designs, or
  - (3) the current Green Commercial Designation Standard of the FGBC,
- (e) Land Developments: The participant shall satisfy all of the requirements including but not limited to any monetary or certification requirements associated with:
  - (1) the current LEED for New Construction or applicable USGBC LEED rating system (e.g., LEED for Schools, LEED for Health Care), or
  - (2) the Green Globes environmental assessment system for new designs, or
  - (3) the current Green Commercial Designation Standard of the FGBC.
- (f) Additional Certification Programs shall be considered eligible for incentives upon petition to the Building Division and adoption by the City Council by resolution.

## **5. Incentives.**

The program shall include incentives designed to encourage the use of the program.

- (a) All projects. For any voluntary owner seeking certification, the City shall provide fast-track permitting incentives.
- (b) Marketing. The Building Division shall develop a marketing program to promote green building in the City of Punta Gorda. The City shall provide the following marketing incentives, including but not limited to:
  - (1) Provide an outdoor sign that a builder may use to promote a project under construction that is seeking certification under this program;
  - (2) The inclusion of program participants including developers, builders and material suppliers on a webpage dedicated to the program including website links to local sustainable businesses and green building material suppliers;
  - (3) The creation of promotional packages such as a program logo for a program participant's advertisements or brochures and educational information for building owners demonstrating the benefits of green building;
  - (4) Press releases;
  - (5) Information about available financial programs, including but not limited to those associated with Fannie Mae/Freddie Mac;
  - (6) Special Recognition Awards to businesses, professionals and individuals who exemplify green building. The recipients of the awards will be promoted by the City by methods deemed to be cost effective and beneficial for promoting Green Building. The City shall work with the building industry to develop award categories and criteria which may include:
    - a. Green Building Award. For the purpose of publicity recognizing outstanding commitment to "green building," the program shall provide for an award called the "Green Building Award" to be awarded annually by the City to a business or individual whose support of green building has made an impact on the City of Punta Gorda above and beyond industry standards.
    - b. Residential Green Builder (new or remodel)
    - c. Commercial Green Builder (new or remodel)
    - d. Architect/Engineer
    - e. Subcontractor
    - f. Material Supplier
    - g. Special green contribution award. The City shall annually provide a special recognition award to those contractors that donate significant reusable building materials to non-profit local building organizations.

## **6. Certification.**

Projects shall be certified by an independent third party in accordance with the standards for the rating program indicated in the project application.

## **7. Education and Training.**

- (a) The City in conjunction with Charlotte County, FSEC, FGBC, Green Globes, NAHB or USGBC, may conduct at least one training workshop per year for the purpose of educating potential or current program participants about the program.
- (b) The Building Division will cooperate with Charlotte County and any other relevant City Department to hold an annual Green Building Expo for the purpose of educating the public as to the options available to make their homes and lifestyle more sustainable.
- (c) The City shall attempt to make available a meeting space at a government facility when available for green building programs offered by organizations that are of a general nature (not product specific). Organizations shall contact the facilities staff to make arrangements.
- (d) City Building and Planning staff shall be encouraged to attend at least 2 hours of green building/design training a year if available and funded.

## **8. Program Review.**

- (a) The Building Division shall establish measurable goals and objectives for the program.
- (b) Staff review. The City shall conduct a review of the program using the established measurements to determine the need for changes in the program to increase its effectiveness.
- (c) Frequency. The program shall be subject to review one year after the effective date of the ordinance and thereafter at a frequency of not more than once per year.
- (d) Purpose. The purpose of review of the program includes but is not limited to updating program incentives, recommending program or marketing changes to the City, reviewing suggestions made by program participants and annually awarding the green building awards of the program.

(Ord. No. 1615-09, <sec> 1, 9-16-09)

## **Sec. 7-31. Additions, amendments and modifications to building code.**

In addition to the regulations imposed by other sections of this chapter, the following requirements shall apply:

- (a) The issuance of building permits pertaining to structural components of a new or existing building shall require the certification of the plans and specifications by an architect or engineer. The Building Division is directed to establish and keep current guidelines, policies, checklists and procedures for the implementation of this subsection.
- (b) All contractors or owners shall provide, during the course of any construction project for which a building permit is required, adequate on-site receptacles or containers capable of holding such materials as papers, building material wastes, and all other loose litter and debris until proper disposal of these materials is accomplished.

In addition to the above requirements, containers that are full shall be emptied, and

containers that become full shall within twenty four (24) hours after notification by the Building Division, be emptied before construction shall continue on-site.

- (c) All contractors and owners shall provide and maintain during construction soil erosion barriers to prevent any soil erosion into canals, adjacent properties, the city drainage system or any street or road.

Any violation of subsection 7-31(b) or (c) not corrected within twenty four (24) hours after notification to the contractor (directly or through a member of the company) or owner shall be subject to the following:

- (1) On the second day a stop work order (red tag) will be placed on the job and a fine of one hundred dollars (\$100.00) per day will be imposed until the violation is eliminated.
  - (2) In addition, the City of Punta Gorda shall be authorized to clean up all debris and empty all containers on said site, either in-house or through a contractor, and the cost of the cleanup will be added to the fine imposed.
  - (3) No inspections will be made and no certificate of occupancy will be issued until all fines and costs have been paid.
- (d) After obtaining a building permit, the permittee has 2 years (24 months) to complete the construction and obtain a Certificate of Occupancy. If construction is suspended or abandoned for a period of 6 months after the work is commenced, or if construction is not completed within 2 years (24 months) from issuance of the building permit, the permit shall become invalid and an extension must be applied for or the construction shall be deemed abandoned and may be ordered demolished by the City. If not demolished within a reasonable time by the owner, the construction may be subject to demolition by the City with a lien for the cost thereof placed on the property.
- (e) Hours of construction activity in residential areas.

- (1) Definitions. As used in this Section:

Construction means any activities associated with site preparation, assembly, erection, repair, alteration or demolition of structures. For the purposes of this Section, Construction shall not include any activity conducted by a governmental entity or on behalf of a governmental entity.

Emergency work means work made necessary to restore property to a safe condition immediately following a calamity or work required to protect persons or property from imminent exposure to danger. For purposes of this Section "immediately" shall mean no more than seven (7) days.

Person means individuals, corporations, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicated and all other groups and combination thereof.

Residential area means any area which is zoned residential under the City of Punta Gorda Land Development Regulations.

- (2) Hours of certain construction work. No person shall operate or cause to be operated any machinery, demolition equipment, construction equipment, power

tools, equipment of a semi-mechanical nature or otherwise undertake construction work in any manner in a residential area between the hours of 8:00 p.m. and 6:00 a.m. However, this Subsection shall not apply to the use of temporary pumps or other machinery which, because of its very nature and purpose, is required to operate twenty-four (24) hours a day. This Subsection shall also not apply to any activity, noise or disturbance caused by emergency work. Nor shall this Subsection be applied to prohibit the movement of construction vehicles engaged in transportation on any public or private right-of-way.

- (3) The performance of any construction work which violates the provisions of Subsection (2) of this Section shall constitute a public nuisance.
- (4) Enforcement. Any violation of the provisions of this Section may be enforced pursuant to the provisions of Chapter 9A, City of Punta Gorda Code.
- (5) Administrative Variance. The City Manager, or his designee, is hereby authorized to grant a variance from the provisions of this Section under such terms or conditions as the City Manager or his designee shall deem appropriate, upon a finding that strict adherence to the terms of this Section would result in demonstrable and undue hardship to the applicant.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 823-86, <sec> 1, 3-5-86; Ord. No. 849-86, <sec> 1, 10-15-86; Ord. No. 999-90, <sec> 1, 10-3-90; Ord. No. 1075-93, <sec> 1, 6-2-93 Ord. No. 1095-94 <sec> 1, 02-16-94 Ord. 1099-94, <sec.> 1, 06-01-94; Ord. No. 1173-97, <sec> 5, 01-03-97; Ord. 1238-99. <sec> 1, 03-03-99; Ord. No. 1328-02, <sec> 18, 3-6-02; Ord. No. 1432-06; <sec> 1, 04-05-06; Ord. No. 1834-15, <sec> 5, 12-2-2015; Ord. No. 1889-17, <sec> 1, 12-20-2017)

#### **Sec. 7-32. Violations of building code; penalties.**

(a) Any person who shall:

- (1) Begin the construction of any building or structure regulated by the building code, without first obtaining a permit and paying the fee as prescribed therein; or
- (2) Vary the construction of such building, structure or any part thereof from the plans filed with or approved by the Building Official, without first having submitted to him proposed changes or alterations of plans and having received his approval therein; or
- (3) Substitute any material for that prescribed in the plans and specifications filed with or approved by the Building Official, without first having submitted to him such proposed substitution and having received his approval thereof; or
- (4) Proceed with the work on the building or structure after having received a lawful order of the building inspector to suspend such work or after the building inspector shall, in the lawful exercise of his power and duty, have posted a stop order in a conspicuous place on the premises; or
- (5) Fail, within a reasonable time after order by the building official, to remove or demolish any building or structure or part thereof, which is found to fail to comply with the building code or other ordinances, shall be punished as provided in paragraph (b).
- (6) Violate Section 7-31(e) of this code shall be punished as provided in paragraph (b).

(b) Any person violating paragraph (a) shall:

- (1) Upon conviction, be punished as provided in section 1–6 of this Code, and subsequent continued violations may be so punished from time to time notwithstanding previous convictions or acquittals of the original violation or charge, and providing further that no convictions or acquittals shall be deemed to bar any civil remedy to enforce compliance with the regulations of the building code or to abate any nuisance arising from a violation thereof; or
- (2) Be brought before the Building Board and, upon being found guilty of violation of any provision of this section, be subject to the same remedies and penalties provided in Section 7–3.1 of this Chapter; and/or
- (3) Pay quadruple the amount of permit fee required where construction is commenced before a permit is obtained, unless waived by the Chief Building Official for just cause.

*(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1193-97, <sec> 1, 9-17-97; Ord. No. 1328-02, <sec> 20, 3-6-02; Ord. No. 1418-05, <sec> 2, 09-07-05; Ord. No. 1432-06, <sec> 2, 04-05-06; Ord. No. 1834-15, <sec> 6, 12-2-2015; Ord. No. 1889-17, <sec> 1, 12-20-2017)*

### **Sec. 7–33. Building permit fees.**

Building permit fees are hereby established as follows:

(a) The fee for the following permits shall be \$25.00:

- (1) Electrical permits
  - i. Pool heat pump
  - ii. Water conditioning equipment
  - iii. Docks, boat lifts and seawalls

(b) The fee for the following permits shall be \$50.00:

- (1) Water heater replacement (including solar water heaters)
- (2) Entry door or overhead door
- (3) Storm panels
- (4) All other types of opening protection will be permitted by valuation – \$50.00 plus \$7.00 per thousand

(c) The fee for the following permits shall be \$100.00:

- (1) Concrete slabs
- (2) Sheds and fences
- (3) Irrigation systems
- (4) Demolition
- (5) Miscellaneous electrical or plumbing
- (6) Air conditioning change-out (includes single commercial change-outs)
- (7) Pool heat pump (additional electric permit required)
- (8) Water conditioning equipment (additional electric permit required)
- (9) Signs
- (10) Temporary Certificates of Occupancy
- (11) Residential line and grade
- (12) Docks, boat lifts and seawalls (additional electric permit required)

- (13) Building (house) moving
- (14) Replacement of up to two (2) windows

(d) The fee for the following permits shall be \$200.00:

- (1) Aluminum structures/carports/cages
- (2) Construction trailer/mobile home setup
- (3) Swimming pool/gazebo
- (4) Replacement of three (3) or more windows or a single sliding door

(e) The fee for the following permits shall be priced by valuation – \$50.00 plus \$7.00 per thousand. The valuation shall be based upon the most recent International Code Council Building Valuation Tables published on the International Code Council website. When a bona fide contract showing the agreed payment for construction is submitted to the building official, the fees shall be based upon the anticipated costs. The minimum charge for these permits shall be \$200.00:

- (1) Re-roof
- (2) New residential or commercial construction or addition/remodel
- (3) Photovoltaic systems
- (4) Multi-family or commercial seawalls
- (5) All commercial work

(f) A separate permit will be required for any stand alone parking lot to be constructed. The fee for this permit shall be \$50.00. One and two family residential structures are exempt from this permit requirement.

(g) The fee for the following permits shall be:

- (1) Residential plans change \$ 50.00
- (2) Commercial plans change \$ 75.00
- (3) Restamp of jobsite prints \$ 50.00
- (4) Second rejection for same item during review \$ 75.00
- (5) Reinspection fees:
  - i. Wrong address \$ 50.00
  - ii. Any type of inspection turned down due to faulty construction or code violation \$ 50.00
  - iii. Repairs or corrections not made when reinspection is called \$ 50.00
  - iv. Work not ready for inspection when called. In the event the inspector is unable to complete his work due to premises being locked or unavailable or for other reasons, reinspection shall

- be made by special appointment with the inspector, but shall require a reinspection fee \$ 50.00
- v. A reinspection fee may be waived by the Chief Building Official for just cause.
- (6) Extension of expired permits (unless waived by the Building Official for just cause) \$100.00
- (7) Change of contractor (same plans and specifications) \$100.00
- (8) Dredging \$450.00
- (9) Miscellaneous work \$100.00
- (10) Review of plans prior to application (non-refundable) -- 50% of proposed permit fee.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 894-87, <sec> 1, 11-4-87; Ord. No. 925-88, <sec> 1, 8-17-88; Ord. No. 991-90, <sec> 3, 8-15-90; Ord. No. 1059, <sec> 2, 9-2-92; Ord. No. 1173-97, <sec> 7, 01-03-97; Ord. No. 1328-02, <sec> 21, 3-6-02; Ord. No. 1417-05, <sec> 2, 09-07-05; Ord. No. 1608-09, <sec> 1, 8-5-09; Ord. No. 1681-11, <sec> 1, 5-18-11; Ord. No. 1834-15, <sec> 7, 12-2-2015)

#### **Sec. 7-34. Reserved**

#### **Sec. 7-35. Building numbering.**

- (a) The Urban Design Division shall be responsible for informing property owners of the numbers assigned their property upon request. In addition, the numbers shall be included in the property descriptions on documents drawn up by the city.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 911-88, <sec> 1, 6-1-88; Ord. No. 1328-02, <sec> 22, 3-6-02; Ord. No. 1605-09, <sec> 1, 6-3-09; Ord. 1889-17, <sec> 1, 12-20-2017)

#### **Sec. 7-36. Minimum elevation of finished floor.**

- (a) Except as provided for in section 26-9(1) (National Flood Damage Prevention Ordinance Regular Phase), all new construction shall have a first floor finished elevation of eighteen (18) inches above the crown of the street upon which the property in question abuts.

(Ord. No. 789-85, <sec> 1, 4-17-85; Ord. No. 1328-02, <sec> 22, 3-6-02)

## ARTICLE IV. UNSAFE BUILDING ABATEMENT CODE

### Sec. 7-37. Unsafe Building Abatement Code.

- (a) The following Sections shall constitute and be known and cited as the City of Punta Gorda "Unsafe Building Abatement Code".
- (b) The provisions of this Article are hereby declared to be remedial and are intended to foster public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from damages caused by fire, winds, floods and other hazards.
- (c) The provisions of this Article shall apply to all unsafe buildings or structures, as herein defined and shall apply equally to new and existing conditions.
- (d) The provisions of this Article shall be enforced by the City of Punta Gorda Building Official.

(Ord. No. 1442-06, <sec>2, 07-05-06)

### Sec. 7-38. Requirement for Safe Buildings and Structures.

All buildings and structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the Florida Building Code, and all appendices thereof, in a building or structure when erected, altered or repaired, shall be maintained in good working order. The owner and his designated agent(s) shall be responsible for the maintenance of buildings and structures.

(Ord. No. 1442-06, <sec>2, 07-05-06)

### Sec. 7-39. Definitions.

Words not defined herein shall have the meanings stated in the Florida Building Code.

**BUILDING** – Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for a minimum of 50% of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." For the purposes of this Article, each portion of a building is separated from other portions by a fire wall shall be considered as a separate building.

**BUILDING OFFICIAL** – The head of the City of Punta Gorda Building Division, or his designee, who is charged with the administration and enforcement of this Article.

**DIVISION** – The City of Punta Gorda Building Division.

**INTERESTED PARTY** – The owner as defined below and any other person or entity having a legal or equitable interest in the property, including but not limited to, any mortgage holders or other lien holders of record.

**OWNER** – Any person, agent, firm or corporation having a legal or equitable interest in the property.

**STRUCTURE** – That which is built or constructed.

**UNSAFE BUILDING** – Any building or structure that has **any** of the following conditions, which shall be presumed to endanger the life, health, property or safety or its occupants or the general public:

1. Any means of egress or portion thereof that is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic;
2. Any means of egress or portion thereof, such as, but not limited to, fire doors, closing devices and fire resistive ratings, that are in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in case of fire or panic;
3. The stress in any material, member or portion thereof, due to all imposed loads including dead load which exceed the stresses allowed in the Florida Building Code for new buildings;
4. The building, structure or portion thereof has been damaged by fire, flood, hurricane, tornado, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirement established by the Florida Building Code for new buildings;
5. Any exterior appendage or portion of the building or structure that is not securely fastened, attached or anchored such that it is incapable of resisting wind, seismic or similar loads as required by the Florida Building Code for new buildings;
6. If for any reason the building, structure or portion thereof is manifestly dangerous or unsanitary for the purpose for which it is being used;
7. The building, structure or portion thereof, which, as a result of decay, deterioration or dilapidation, is likely to fully or partially collapse;
8. The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the Florida Building Code or of the Code of Ordinances of the City of Punta Gorda;
9. Any building, structure or portion thereof that is in such a condition as to constitute a public nuisance as that term is defined in Article IV, Section 9A-12, Code of Ordinances of the City of Punta Gorda;
10. Any building, structure or portion thereof that is dangerous, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment; or
11. Any building not completed in substantial conformity with plans and specifications upon which the building permit for construction was issued where one hundred twenty (120) days or more have lapsed since the expiration, revocation or cancellation of the building permit authorizing same, which is dangerous, unsanitary or constitutes a fire hazard or is otherwise dangerous to human health or which in relation to existing uses, constitutes a hazard to safety and health by reason of abandonment.

(Ord. No. 1442-06, <sec>2, 07-05-06)

#### **Sec. 7-40. Inspection, Notice of Unsafe Building and Orders for Corrective Action.**

- (a) The Building Official, the City of Punta Gorda Fire Chief and any other authorized representative of the City of Punta Gorda may inspect or cause to be inspected any building, structure or portion which is or may be unsafe. If following an inspection the Building Official determines that a building, structure or portion thereof is unsafe, he shall initiate proceedings to cause the abatement of the unsafe condition by repair, vacation, boarding, securing or demolition or combination thereof.
- (b) When considering the appropriate action to take to abate an unsafe condition, the Building Official shall be guided by the following standards:
  - 1. The building or structure shall be ordered repaired in accordance with the Florida Building Code or demolished at the option of the owner.
  - 2. If the building or structure constitutes an immediate hazard to life or to the safety of the public:
    - a. The Building Official shall order the building or structure vacated immediately; and
    - b. The Building Official shall cause the building or structure to be made safe. This action may include an Order that the building or structure be demolished.
  - 3. The building or structure may be secured or boarded up for a maximum of 30 calendar days, after which time the necessary repairs or construction, alterations, removal or demolition shall have been commenced and completed; provided, that if an appeal has been taken, the building or structure may be secured or boarded up during the pendency of the appeal and for such additional time as the City of Punta Gorda Building Board may allow.
  - 4. The Building Official may extend a deadline for repairing, securing or boarding up, or demolishing a building or structure upon a showing of good cause by the owner, and upon a showing by the owner that the owner has entered into a contract with a licensed contractor to perform the necessary work. However, if the building or structure constitutes an immediate hazard to life or to the safety of the occupants and the public, the deadline to vacate the building shall not be extended, the building or structure shall be secured against entry by trespassers and any exterior repairs necessary to remove hazards to persons outside the building or structure shall be performed to the satisfaction of the Building Official as a prerequisite to an extension of a deadline.
- (c) Except as provided in Section 7-42 of this Article relating to emergencies, the Building Official shall prepare and issue a Notice of Unsafe Building and Order for Corrective Action directed to the owner of record and all other interested parties of the building or structure. The Notice and Order shall contain, but not be limited to, the following information:
  - 1. The street address and legal description of the building, structure or premises;
  - 2. A statement indicating the building or structure has been declared unsafe by the Building Official and a detailed report documenting the conditions determined to have rendered the building or structure unsafe under the provisions of this Article;

3. An Order directing the owner of record and all other interested parties to undertake the actions determined by the Building Official as necessary to abate the unsafe condition and a deadline for completing said actions. Such actions may include, but not be limited to, repair, vacation, boarding, securing or demolition or combination thereof;
  4. A statement advising that if the required action as determined by the Building Official is not commenced within or completed by the time specified, the building will be ordered vacated, boarded, secured and posted to prevent further occupancy until the work is completed; the Building Official may cause the work to be done and all costs incurred charged against the property or the owner of record; the Building Official may refer the matter to the City of Punta Gorda Code Enforcement Board; and the Building Official may initiate demolition proceedings;
  5. If the building or structure is to be demolished, the notice shall require that the premises be vacated, that all required permits for demolition be secured and that the demolition be completed within such time as determined reasonable by the Building Official; and
  6. A statement advising that any person having any legal interest in the property may appeal the Notice and Order of the Building Official to the City of Punta Gorda Building Board; that such appeal shall be in writing in the form specified in Section 7-43 of this Article and shall be filed with the Building Official within 15 days from the date of receipt of the notice; and that failure to appeal in the time specified will constitute a waiver of all rights to an appeal.
- (d) In those cases where the owner or other interested parties fail to comply with a Notice and Order to repair, vacate, board or secure an unsafe building or structure, the Building Official is hereby authorized to cause such unsafe condition to be abated by any appropriate means.
- (e) In those cases where the owner or other interested parties fail to comply with an Order to repair and the Building Official determines it to be necessary to demolish the unsafe building or structure, notice shall be sent to the owner and all other interested parties advising of such demolition. The notice shall contain, but not be limited to, the following information:
1. The street address and legal description of the building, structure or premises;
  2. The date the notice to repair was served pursuant to this Article;
  3. The date that the City of Punta Gorda will commence demolition of the unsafe building or structure if the owner or other interested parties fail to timely appeal the notice.
  4. A statement advising that any person having any legal interest in the property may appeal this notice to the City of Punta Gorda Building Board; that such appeal shall be filed in writing in the form specified in Section 7-43 of this Article and shall be filed within 15 days from the date of receipt of the notice; and that failure to appeal in the time specified will constitute a waiver of all rights to an appeal.
- (f) The Notice, Order and all attachments thereto shall be served upon the owner of record and upon all other interested parties and posted on the property in a conspicuous location. A copy of the Notice, Order and all attachments thereto shall also be served on

any person determined from official public records to have a legal interest in the property. Failure of the Building Official to serve any person herein required to be served other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person served from any obligation imposed on him.

- (g) The Notice and Order shall be served either personally or by certified mail, postage prepaid, return receipt requested, to each person at the address as it appears on the official public records. If addresses are not available on any person required to be served the Notice and Order, or in the event a Notice and Order sent by either registered or certified mail shall be returned undeliverable, the Building Official shall publish a Notice and Order once (1) a week for four (4) consecutive weeks in a newspaper of general circulation within the City of Punta Gorda and shall mail a Notice and Order addressed to such person to the address of the building or structure involved in the proceedings. A copy of such Notice(s) and Order(s) shall be posted in a conspicuous place at City Hall and upon the building or structure involved. The failure of any person to receive a Notice and Order, other than the owner of record, shall not invalidate any proceedings under this Section. Service by certified or registered mail as herein described shall be effective on the date the Notice and Order were received as indicated on the return receipt.
- (h) In addition to the general notice requirements provided in this Section, every Notice and Order requiring the vacation of any building or structure shall be posted at each exit and entrance to the building or structure and shall state: "THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CITY OF PUNTA GORDA BUILDING OFFICIAL". Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful and a violation of this Article, for any person, firm, corporation or their agents to remove such notice without written permission of the Building Official, or for any person to enter the building except for the purpose of making the required repairs or of demolition of same.
- (i) Prior to the demolition of any building or structure, all buildings and structures shall be free of infestation from insects and rodents. If any property is found to be infested, the appropriate treatment should be utilized to eliminate infestation. Documentation shall be provided to the Building Official from a licensed exterminator that this requirement has been met prior to demolition.

(Ord. No. 1442-06, <sec>2, 07-05-06)

#### **Sec. 7-41. Recording of Notice of Unsafe Building.**

If the property is not brought into compliance, or an appeal pursuant to Section 7-43 of the Article has not been filed within the allotted time, the Building Official shall record in the public records in the office of the Clerk of the Circuit Court a certificate describing the property and certifying that the building or structure is unsafe and that the owner of record has been served. This certificate shall remain on file until such time as the conditions rendering the building or structure unsafe have been abated. At such time, the Building Official shall file a new certificate indicating that correction action has been taken and the building or structure is no longer unsafe from that condition.

(Ord. No. 1442-06, <sec>2, 07-05-06)

#### **Sec. 7-42. Emergency Conditions.**

If the building, structure or portion thereof has been damaged by fire, flood, hurricane, tornado, earthquake, wind or as a result of decay, deterioration or dilapidation it poses an immediate hazard to life or to the safety of the public, it shall be deemed an emergency and

ordered vacated, boarded, secured or demolished immediately by the Building Official by affidavit attesting to the unsafe condition and by letter of authorization by the City Manager. Prior to such abatement, Notice shall be given to the owner of record and to any other interested party by hand delivery or by posting the property in accordance with the procedures set forth in Section 7-40 of this Article. Proof of posting shall be by affidavit of the person posting the Notice, which affidavit shall include a copy of the notice posted and the date and places of its posting. Notice so posted may run concurrently with, or may follow, an attempt or attempts to provide Notice by hand delivery. In any event, such Notice shall give the owner of the property five (5) days to request, in writing, an appeal before the City of Punta Gorda Building Board. A hearing on the property owner's appeal shall be given within forty-eight (48) hours of the request. Either party may appeal to the Circuit Court, within thirty (30) days of the date such Order was issued, the Order of the City of Punta Gorda Building Board regarding the emergency abatement. Nothing contained herein shall prevent the Building Official from causing immediate abatement prior to any hearing before the City of Punta Gorda Building Board when circumstances warrant such action and when the abatement actions taken prior to a hearing are the minimum response necessary to protect life or safety of the public.

(Ord. No. 1442-06, <sec>2, 07-05-06)

### **Sec. 7-43. Appeals.**

- (a) Any person served with a Notice of Unsafe Building and Order for Corrective Action in accordance with this Article may appeal any action of the Building Official under this Article to the City of Punta Gorda Building Board. Such appeal must be filed in writing with the Building Official within 15 days from the date of service along with a filing fee of One Hundred Dollars (\$100.00) and must contain at least the following information:
  - 1. Identification of the building or structure concerned by street address or legal description.
  - 2. A statement identifying the legal interest of each appellant.
  - 3. A statement identifying the specific order or action being appealed.
  - 4. A statement detailing the issues on which the appellant desires to be heard.
  - 5. The legal signature of all appellants and their official mailing address.
- (b) Upon receipt of an appeal, the City Clerk shall as soon as practicable, fix a date and time for the hearing of the appeal. The hearing date shall not be more than 60 days from the date the appeal was filed with the Building Official. Written notice of the time and location of the hearing shall be delivered personally or mailed to each appellant or to his attorney of record at his address on the appeal by certified mail, postage prepaid and return receipt requested.
- (c) The hearing notice of the appeal before the City of Punta Gorda Building Board shall include, but not be limited to the following language:

“You are hereby notified that on the \_\_\_\_ day of \_\_\_\_, 200\_ at \_\_\_\_ o’clock, at the City Council Chambers, City of Punta Gorda City Hall, 326 West Marion Avenue, Punta Gorda, Florida, a hearing will be held before the City of Punta Gorda Building Board to consider the appeal from the Order of the Building Official regarding property located at \_\_\_\_\_. You may choose to be represented by counsel. You may present relevant evidence and will be given an opportunity to cross examine all

witnesses. You may request the issuance of subpoenas to compel witnesses to appear and/or for the production of other supporting data or documentation, by filing a written request with the City of Punta Gorda Building Board.”

- (d) The hearing notice shall be served personally or mailed as required by Section 7–40 of this Article at least 10 days prior to the hearing date.
- (e) In exercising its powers to consider an appeal under this Article, the City of Punta Gorda Building Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirements, decisions or determinations as, in its judgment, are required. The City of Punta Gorda Building Board shall act by majority and a quorum shall consist of at least four (4) members. The Board’s decision shall be effective as of the date of the hearing at which the Board’s decision is made.
- (f) Failure of any person to appear at the hearing set in accordance with the provision of this Article shall constitute a waiver of his right to a hearing on a Notice and Order.
- (g) The hearing shall offer the appellant reasonable opportunity to be heard on only those specific matters or issues raised by the appellant in his appeal. The appellant may appear at the hearing in person or through his attorney or other designated representative.
- (h) Except for an Order compelling the vacation of any building or structure pursuant to the provisions of this Article, enforcement of any Notice and Order issued by the Building Official under this Article shall be held in abeyance during the course of an appeal.
- (i) A permanent record shall be made of all hearings and proceedings using the method of recording designated by the City Clerk.
- (j) The City of Punta Gorda Building Board may subpoena witnesses to attend the hearing. The City of Punta Gorda Building Board may also subpoena evidence as necessary for the hearing, including but not limited to physical and documentary evidence such as records, surveys, plats and photographs. The issuance and service of subpoenas shall be in accordance with established law.
- (k) Hearings shall not be required to be conducted in accordance with the technical rules relating to evidence and testimony. Oral evidence shall be taken only on oath or affirmation. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence. The further use of hearsay evidence shall be limited to that which would be admissible in civil court. Relevant evidence shall be admitted if it is the type on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil courts.
- (l) The decision of the City of Punta Gorda Building Board on any appeal presented to it shall be reduced to writing in an Order to be prepared by the City Clerk. Said Order shall be mailed to all parties.
- (m) The decision of the City of Punta Gorda Building Board shall be subject to judicial review in the Circuit Court by common law certiorari.

(Ord. No. 1442-06, <sec>2, 07-05-06)

#### **Sec. 7-44. Failure to Comply With Final Order.**

It shall be a violation of this Chapter for any person to fail to comply with any Final Order of the Building Official issued pursuant to the provisions of this Article.

(Ord. No. 1442-06, <sec>2, 07-05-06)

#### **Sec. 7-45. Recovery of Abatement Costs by means of Special Assessment.**

- (a) Whenever a building or structure is repaired, vacated, boarded, secured or demolished in accordance with the provisions of this Article and the cost of such repair, vacation, boarding, securing or demolition is borne by the City of Punta Gorda, such abatement costs may be recovered by the City by means of Special Assessment. A Special Assessment District is hereby established within the territorial limits of the City of Punta Gorda to authorize the levy and collection of a Special Assessment against any unsafe building pursuant to the provisions of this Article.
- (b) Upon completion of the abatement actions by the City, the Building Official shall mail an invoice to the real property owner, by certified mail, return receipt requested, requesting payment to the City for the costs of abating the unsafe condition upon the owner's property. For the purposes of this Subsection, the term "costs" shall include the actual cost of abating the unsafe condition, the cost of serving and publishing notice, the cost of obtaining title information, the cost of lien recordation, the costs of inspections and all other related costs, including, but not limited to administrative charges and fees in effect at the time of mailing the invoice. The invoice shall require full payment of the invoices charges within thirty (30) days of the invoice date. A copy of the invoice shall also be mailed to any mortgagee.
- (c) If the property owner fails to pay the invoices charges within thirty (30) days of the invoice date, the Building Official or his designee shall prepare a Resolution designating the name and address of the real property owner, a legal description of the property improved by the City's abatement actions and an itemization of the costs to be assessed against the improved real property. Upon approval of the Resolution by City Council, the costs stated in the Resolution shall be and constitute a municipal Special Assessment against the benefitted real property and shall be and remain a lien against the real property and shall bear interest at a rate of eight percent (8%) per annum from the date the assessment is approved and recorded by the City Council. Such Special Assessment lien shall be coequal with the lien of all state, county, district and municipal taxes and superior in dignity to mortgages and all other liens, irrespective of the date of the recording of the Special Assessment lien, or the date of the recording of any mortgage or any other lien on the real property. The assessment shall be payable at the time and in the manner as stated in the Resolution. To the extent not inconsistent with general or special law, the Special Assessment lien established by Resolution adopted pursuant to this Subsection and unrecorded at the time of filing for record of lis pendens against the subject property, shall nevertheless be enforceable against the subject real property and shall have the priority as specified herein.
- (d) Upon approval of the Special Assessment Resolution by the City Council, the Building Official or his designee shall cause to be published in a local newspaper of general circulation a notice directed to the property owner of the real property benefitted by the City's unsafe building abatement actions. Said notice shall designate a time and place where complaints will be heard with reference to the Special Assessment and when such Special Assessment will be finally approved and confirmed by the City Council. A copy

of such notice shall be mailed to the real property owner and any known mortgagee, by certified mail, return receipt requested. Mailing to the property owner's last known address as the same appears on the records of the Charlotte County Property Appraiser shall be sufficient. Failure to notify any mortgagee or any other person having a secured interest in the benefitted real property shall not invalidate any action under this Subsection.

- (e) At the time and place designated in the notice provided pursuant to Subsection (d) above, the Building Board shall meet as an equalizing board to hear and consider any and all complaints as to the amount of the established Special Assessment. The Building Board shall adjust and equalize the Special Assessments, when it deems such action is necessary. The Building Board may only adjust or equalize the established Special Assessment upon a showing by an interested party that the amount of the established Special Assessment is unreasonable or that the property will not derive any special benefit from the improvements made by the City. At the conclusion of the hearing before the Building Board, the Building Board shall enter an order either adjusting, nullifying or confirming the Special Assessment. The Building Board's order shall be provided to the City Council. If the Building Board's order nullifies or adjusts the Special Assessment, the City Council shall adopt a new Resolution which shall supersede the initial Resolution approved pursuant to Subsection (c) above. The new Resolution shall be recorded following adoption. If the Building Board confirms the Special Assessment as initially established, the initial Resolution shall be recorded in the Public Records of Charlotte County, Florida, and said Special Assessment shall be and remain legal, valid and binding as a lien upon the real property against which the Special Assessment is made, until paid in full, including any accrued interest. The liens provided for herein may be foreclosed in the manner provided by law.

(Ord. No. 1442-06, <sec>2, 07-05-06; Ord. No. 1732-13, <sec>2, 04-03-13)

#### **Sec. 7-46. Additional and Supplemental Remedies.**

The remedies provided in this Article are intended to be an additional or supplemental means of abating unsafe buildings or structures. Nothing contained herein shall limit enforcement by the City of Punta Gorda of any violation of its Code of Ordinances by any legal means, administrative, civil or criminal, nor shall this Article modify any rights that the City may have to enjoin unsafe buildings or structures in a court of competent jurisdiction.

(Ord. No. 1442-06, <sec>2, 07-05-06)

## ARTICLE V. FLOODPLAIN MANAGEMENT CODE

### CHAPTER 1 ADMINISTRATION

#### SECTION 101 GENERAL

**101.1 Title.** These regulations shall be known as the *Floodplain Management Code* of Punta Gorda, hereinafter referred to as “this Article.”

**101.2 Scope.** The provisions of this Article shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

**101.3 Intent.** The purposes of this Article and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

1. Minimize unnecessary disruption of commerce, access and public service during times of flooding;
2. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
3. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
4. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
5. Minimize damage to public and private facilities and utilities;
6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
7. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
8. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

**101.4 Coordination with the *Florida Building Code*.** This Article is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code*.

**101.5 Warning.** The degree of flood protection required by this Article and the *Florida Building Code*, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood

elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this Article.

**101.6 Disclaimer of Liability.** This Article shall not create liability on the part of the City Council of the City of Punta Gorda or by any officer or employee thereof for any flood damage that results from reliance on this Article or any administrative decision lawfully made thereunder.

## **SECTION 102 APPLICABILITY**

**102.1 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

**102.2 Areas to which this Article applies.** This Article shall apply to all flood hazard areas within the City of Punta Gorda, as established in Section 102.3 of this Article.

**102.3 Basis for establishing flood hazard areas.** The Flood Insurance Study for Charlotte County, Florida and Incorporated Areas dated May 5, 2003, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this Article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City of Punta Gorda Building Division, 326 West Marion Avenue, Punta Gorda, FL.

**102.3.1 Submission of additional data to establish flood hazard areas.** To establish flood hazard areas and base flood elevations, pursuant to Section 105 of this Article the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

1. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this Article and, as applicable, the requirements of the *Florida Building Code*.
2. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

**102.4 Other laws.** The provisions of this Article shall not be deemed to nullify any provisions of local, state or federal law.

**102.5 Abrogation and greater restrictions.** This Article supersedes any Article in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing Articles including but not limited to land development regulations, zoning ordinances, storm water management regulations, or the *Florida Building Code*. In the event of a conflict between this Article and any other regulation or ordinance, the more restrictive shall govern. This Article shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this Article.

**102.6 Interpretation.** In the interpretation and application of this Article, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

{Ord. No. 1785-14, <sec> 1, 05/04/2014}

## **SECTION 103 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR**

**103.1 Designation.** The Chief Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

**103.2 General.** The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this Article. The Floodplain Administrator shall have the authority to render interpretations of this Article consistent with the intent and purpose of this Article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this Article without the granting of a variance pursuant to Section 107 of this Article.

**103.3 Applications and permits.** The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

1. Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
2. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this Article;
3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
4. Provide available flood elevation and flood hazard information;
5. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
6. Review applications to determine whether proposed development will be reasonably safe from flooding;
7. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this Article is demonstrated, or disapprove the same in the event of noncompliance; and
8. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this Article.

**103.4 Substantial improvement and substantial damage determinations.** For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions,

rehabilitations, renovations, substantial improvement, substantial damage and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Chief Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage;
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant provisions of the *Florida Building Code* and this Article is required.

{Ord. No. 2002-2022, <sec> 2, 11/16/2022}

**103.5 Modifications of the strict application of the requirements of the *Florida Building Code*.** The Floodplain Administrator shall review requests submitted to the Chief Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 107 of this Article.

**103.6 Notices and orders.** The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this Article.

**103.7 Inspections.** The Floodplain Administrator shall make the required inspections as specified in Section 106 of this Article for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

**103.8 Other duties of the Floodplain Administrator.** The Floodplain Administrator shall have other duties, including but not limited to:

1. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 103.4 of this Article;
2. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
3. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations,

flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;

4. Review required design certifications and documentation of elevations specified by this Article and the *Florida Building Code* to determine that such certifications and documentations are complete;
5. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Punta Gorda are modified; and
6. Advise applicants for new buildings and structures, including substantial improvements, which are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

**103.9 Floodplain management records.** Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this Article and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this Article; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this Article and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at City of Punta Gorda Building Division, 326 West Marion Avenue, Punta Gorda, FL.

{Ord. No. 1785-14, <sec> 1, 05/07/2014}

## SECTION 104 PERMITS

**104.1 Permits required.** Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this Article, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this Article and all other applicable codes and regulations has been satisfied.

**104.2 Floodplain development permits or approvals.** Floodplain development permits or approvals shall be issued pursuant to this Article for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

**104.2.1 Buildings, structures and facilities exempt from the *Florida Building Code*.** Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals

shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, which are subject to the requirements of this Article:

1. Railroads and ancillary facilities associated with the railroad.
2. Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
3. Temporary buildings or sheds used exclusively for construction purposes.
4. Mobile or modular structures used as temporary offices.
5. Those structures or facilities of electric utilities, as defined in Section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
6. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
7. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
8. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
9. Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.

**104.3 Application for a permit or approval.** To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

1. Identify and describe the development to be covered by the permit or approval.
2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
3. Indicate the use and occupancy for which the proposed development is intended.
4. Be accompanied by a site plan or construction documents as specified in Section 105 of this Article.
5. State the valuation of the proposed work.
6. Be signed by the applicant or the applicant's authorized agent.
7. Give such other data and information as required by the Floodplain Administrator.

**104.4 Validity of permit or approval.** The issuance of a floodplain development permit or approval pursuant to this Article shall not be construed to be a permit for, or approval of, any violation of this Article, the *Florida Building Codes*, or any other ordinances and regulations of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

**104.5 Expiration.** A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

**104.6 Suspension or revocation.** The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this Article or any other ordinance, regulation or requirement of this community.

**104.7 Other permits required.** Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

1. The Southwest Florida Water Management District; Section 373.036, F.S.
2. Florida Department of Health for onsite sewage treatment and disposal systems; Section 381.0065, F.S. and Chapter 64E-6, F.A.C.
3. Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; Section 161.141, F.S.
4. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; Section 161.055, F.S.
5. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
6. Federal permits and approvals.

## **SECTION 105 SITE PLANS AND CONSTRUCTION DOCUMENTS**

**105.1 Information for development in flood hazard areas.** The site plan or construction documents for any development subject to the requirements of this Article shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
2. Where, base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 105.2, Subsections (2) or (3) of this Article.
3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 105.2(1) of this Article.

4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.
5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
7. Delineation of the Coastal Construction Control Line or notation that the site is seaward of the coastal construction control line, if applicable.
8. Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.
9. Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this Article but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this Article.

**105.2 Information in flood hazard areas without base flood elevations (approximate Zone A).** Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
2. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
3. Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
  - a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
  - b. Specify that the base flood elevation is two point two five (2.25) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.
4. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

**105.3 Additional analyses and certifications.** As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the

applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

1. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 105.4 of this Article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
2. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
3. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 105.4 of this Article.
4. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

**105.4 Submission of additional data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

{Ord. No. 1785-14, <sec> 1, 05-07-2014}

## **SECTION 106 INSPECTIONS**

**106.1 General.** Development for which a floodplain development permit or approval is required shall be subject to inspection.

**106.1.1 Development other than buildings and structures.** The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this Article and the conditions of issued floodplain development permits or approvals.

**106.1.2 Buildings, structures and facilities exempt from the *Florida Building Code*.** The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this Article and the conditions of issued floodplain development permits or approvals.

**106.1.2.1 Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection.** Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain Administrator:

1. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
2. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 105.2(3)b of this Article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

**106.1.2.2 Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection.** As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 106.1.2.1 of this Article.

**106.1.3 Manufactured homes.** The Floodplain Administrator or Chief Building Official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this Article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator or Chief Building Official.

## **SECTION 107 VARIANCES AND APPEALS**

**107.1 General.** The Punta Gorda City Council shall hear and decide on requests for appeals and requests for variances from the strict application of this Article. Pursuant to Section 553.73(5), F.S., the Punta Gorda City Council shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*. This section does not apply to Section 3109 of the *Florida Building Code, Building*.

**107.2 Appeals.** The Punta Gorda City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this Article. Any person aggrieved by the decision of Punta Gorda City Council may appeal such decision to the Circuit Court, as provided by Florida Statutes.

**107.3 Limitations on authority to grant variances.** The Punta Gorda City Council shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 107.6 of this Article, the conditions of issuance set forth in Section 107.7 of this Article, and the comments and recommendations of the Floodplain Administrator and the Chief Building Official. The Punta Gorda City Council has the right to

attach such conditions as it deems necessary to further the purposes and objectives of this Article.

**107.3.1 Restrictions in floodways.** A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 105.3 of this Article.

**107.4 Historic buildings.** A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

**107.5 Functionally dependent uses.** A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this Article, provided the variance meets the requirements of Section 107.3.1, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

**107.6 Considerations for issuance of variances.** In reviewing requests for variances, the Punta Gorda City Council shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this Article, and the following:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
4. The importance of the services provided by the proposed development to the community;
5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
6. The compatibility of the proposed development with existing and anticipated development;
7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

**107.7 Conditions for issuance of variances.** Variances shall be issued only upon:

1. Submission by the applicant, of a showing of good and sufficient cause that the unique

characteristics of the size, configuration, or topography of the site limit compliance with any provision of this Article or the required elevation standards;

2. Determination by the Punta Gorda City Council that:
  - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
  - c. The variance is the minimum necessary, considering the flood hazard, to afford relief;
3. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
4. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

{Ord. No. 1972-2021, <sec> 1, 09/08/2021}

## SECTION 108 VIOLATIONS

**108.1 Violations.** Any development that is not within the scope of the *Florida Building Code* but that is regulated by this Article that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this Article, shall be deemed a violation of this Article. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this Article or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

**108.2 Authority.** For development that is not within the scope of the *Florida Building Code* but that is regulated by this Article and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

**108.3 Unlawful continuance.** Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

## ARTICLE V. FLOODPLAIN MANAGEMENT CODE

### CHAPTER 2 DEFINITIONS

#### SECTION 201 GENERAL

**201.1 Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Article, have the meanings shown in this section.

**201.2 Terms defined in the *Florida Building Code*.** Where terms are not defined in this Article and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

**201.3 Terms not defined.** Where terms are not defined in this Article or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

#### SECTION 202 DEFINITIONS

**Accessory structure.** A structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, this term includes only accessory structures used for parking and storage.

**Alteration of a watercourse.** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**Appeal.** A request for a review of the Floodplain Administrator's interpretation of any provision of this Article.

**ASCE 24.** A standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

**Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

**Base flood elevation.** The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

**Basement.** The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 1612.2.]

**Coastal construction control line.** The line established by the State of Florida pursuant to Section 161.053, F.S., and recorded in the official records of the community, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

**Coastal high hazard area.** A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity

wave action from storms or seismic sources. Coastal high hazard areas are also referred to as “high hazard areas subject to high velocity wave action” or “V Zones” and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1–V30, VE, or V.

**Design flood.** The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

1. Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
2. Area designated as a flood hazard area on the community’s flood hazard map, or otherwise legally designated.

**Design flood elevation.** The elevation of the “design flood,” including wave height, relative to the datum specified on the community’s legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building’s perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 1612.2.]

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

**Encroachment.** The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

**Existing building and existing structure.** Any buildings and structures for which the “start of construction” commenced before October 30, 1970. [Also defined in FBC, B, Section 1612.2.]

**Federal Emergency Management Agency (FEMA).** The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

**Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 1612.2.]

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood damage-resistant materials.** Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 1612.2.]

**Flood hazard area.** The greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

1. The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
2. The area designated as a flood hazard area on the community’s flood hazard map, or otherwise legally designated.

**Flood Insurance Rate Map (FIRM).** The official map of the community on which the Federal

Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 1612.2.]

**Flood Insurance Study (FIS).** The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 1612.2.]

**Floodplain Administrator.** The office or position designated and charged with the administration and enforcement of this Article (may be referred to as the Floodplain Manager).

**Floodplain development permit or approval.** An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this Article.

**Floodway.** The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 1612.2.]

**Floodway encroachment analysis.** An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

**Florida Building Code.** The family of codes adopted by the Florida Building Commission, including: *Florida Building Code, Building*; *Florida Building Code, Residential*; *Florida Building Code, Existing Building*; *Florida Building Code, Mechanical*; *Florida Building Code, Plumbing*; *Florida Building Code, Fuel Gas*.

**Functionally dependent use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

**Historic structure.** Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 12 Historic Buildings.

**Letter of Map Change (LOMC).** An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and

floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

**Light-duty truck.** As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
3. Available with special features enabling off-street or off-highway operation and use.

**Lowest floor.** The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the *Florida Building Code* or ASCE 24. [Also defined in FBC, B, Section 1612.2.]

**Manufactured home.** A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

**Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market value.** The market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

**New construction.** For the purposes of administration of this Article and the flood resistant construction requirements of the *Florida Building Code*, structures for which the "start of construction" commenced on or after October 30, 1970 and includes any subsequent improvements to such structures.

**Park trailer.** A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.

**Recreational vehicle.** A vehicle, including a park trailer, which is:

1. Built on a single chassis.
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Sand dunes.** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**Special flood hazard area.** An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 1612.2.]

**Start of construction.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns. Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

**Substantial damage.** Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 1612.2.]

**Substantial improvement.** Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**Variance.** A grant of relief from the requirements of this Article, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by this Article or the *Florida Building Code*.

**Watercourse.** A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

{Ord. No. 1785-14, <sec> 2, 05/07/2014; Ord. No. 1972-2021, <sec> 2, 09/08/2021; Ord. No. 2002-2022, <sec> 3, 11/16/2022}

## ARTICLE V. FLOODPLAIN MANAGEMENT CODE

### CHAPTER 3 FLOOD RESISTANT DEVELOPMENT

#### SECTION 301 BUILDINGS AND STRUCTURES

**301.1 Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*.** Pursuant to Section 104.2.1 of this Article, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section 307 of this Article.

**301.2 Buildings and structures seaward of the coastal construction control line.** If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

1. Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the *Florida Building Code, Building* Section 3109 and Section 1612 or *Florida Building Code, Residential* Section R322.
2. Minor structures and non-habitable major structures as defined in Section 161.54, F.S., shall be designed and constructed to comply with the intent and applicable provisions of this Article and ASCE 24.

**301.3 Accessory structures.** Accessory structures are permitted below the base flood elevation provided the accessory structures are used only for parking or storage and:

1. If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, are one-story and not larger than 600 sq. ft. and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.
2. If located in coastal high hazard areas (Zone V/VE), are not located below elevated buildings and are not larger than 100 sq. ft.
3. Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.
4. Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.
5. Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.

(Ord. 1773-13, <sec> 6, 11-20-2013; Ord. 1889-17, <sec> 1, 12-20-2017; Ord. 1890-18, <sec> 2, 02-21-2018; Ord. No. 1972-2021, <sec> 3, 09/08/2021}

#### SECTION 302 SUBDIVISIONS

**302.1 Minimum requirements.** Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

1. Such proposals are consistent with the need to minimize flood damage and will be

reasonably safe from flooding;

2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

**302.2 Subdivision plats.** Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

1. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats.
2. Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 105.2(1) of this Article; and
3. Compliance with the site improvement and utilities requirements of Section 303 of this Article.

## **SECTION 303 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS**

**303.1 Minimum requirements.** All proposed new development shall be reviewed to determine that:

1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

**303.2 Sanitary sewage facilities.** All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

**303.3 Water supply facilities.** All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

**303.4 Limitations on sites in regulatory floodways.** No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 105.3(1) of this Article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

**303.5 Limitations on placement of fill.** Subject to the limitations of this Article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour, and shall be limited to a depth of no more than one foot above the crown of the fronting roadway. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the *Florida Building Code*.

**303.6 Limitations on sites in coastal high hazard areas (Zone V).** In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Section 105.3(4) of this Article demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 307.8(3) of this Article.

## **SECTION 304 MANUFACTURED HOMES**

**304.1 General.** All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to Section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this Article. If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.

**304.2 Foundations.** All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

1. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the *Florida Building Code, Residential* Section R322.2 and this Article.
2. In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the *Florida Building Code, Residential* Section R322.3 and this Article.

**304.3 Anchoring.** All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

**304.4 Elevation.** All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas designated as A Zones, shall have the lowest floor elevated to or above the base flood elevation plus one (1) foot. Manufactured homes that are placed, replaced, or substantially improved in flood hazard areas designated as Coastal A Zones or V Zones shall be elevated such that the bottom of the frame is at or above the base flood level plus one (1) foot.

**304.5 Enclosures.** Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code, Residential* Section R322 for such enclosed areas, as applicable to the flood hazard area.

**304.6 Utility equipment.** Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the *Florida Building Code, Residential* Section R322, as applicable to the flood hazard area.

(Ord. 1890-18, <sec> 1, 02-21-2018; Ord. No. 1972-2021, <sec> 4, 09/08/2021)

## **SECTION 305 RECREATIONAL VEHICLES AND PARK TRAILERS**

**305.1 Temporary placement.** Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

1. Be on the site for fewer than 180 consecutive days; or
2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

**305.2 Permanent placement.** Recreational vehicles and park trailers that do not meet the limitations in Section 305.1 of this Article for temporary placement shall meet the requirements of Section 304 of this Article for manufactured homes.

## **SECTION 306 TANKS**

**306.1 Underground tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

**306.2 Above-ground tanks, not elevated.** Above-ground tanks that do not meet the elevation requirements of Section 306.3 of this Article shall:

1. Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
2. Not be permitted in coastal high hazard areas (Zone V).

**306.3 Above-ground tanks, elevated.** Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

**306.4 Tank inlets and vents.** Tank inlets, fill openings, outlets and vents shall be:

1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

## **SECTION 307 OTHER DEVELOPMENT**

**307.1 General requirements for other development.** All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this Article or the *Florida Building Code*, shall:

1. Be located and constructed to minimize flood damage;
2. Meet the limitations of Section 303.4 of this Article if located in a regulated floodway;
3. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
4. Be constructed of flood damage-resistant materials; and
5. Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

**307.2 Fences in regulated floodways.** Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 303.4 of this Article.

**307.3 Retaining walls, sidewalks and driveways in regulated floodways.** Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 303.4 of this Article.

**307.4 Roads and watercourse crossings in regulated floodways.** Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 303.4 of this Article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 105.3(3) of this Article.

**307.5 Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).** In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

1. Structurally independent of the foundation system of the building or structure;
2. Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
3. Have a maximum slab thickness of not more than four (4) inches.

**307.6 Decks and patios in coastal high hazard areas (Zone V).** In addition to the requirements of the *Florida Building Code*, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

1. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
2. A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood

conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

3. A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
4. A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

**307.7 Other development in coastal high hazard areas (Zone V).** In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
2. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and
3. On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

**307.8 Nonstructural fill in coastal high hazard areas (Zone V).** In coastal high hazard areas:

1. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
2. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
3. Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

{Ord. No. 1773-13, <sec> 2, 11-20-2013; Ord. No. 1846-16, <sec> 1, 04-20-2016; Ord. No. 1889-17, <sec> 1, 12-20-2017}

## TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE.

### Sec. 1612.2, *Building* and Sec. 202, *Existing Building*.

Modify a definition as follows:

**Substantial improvement.** Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

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